MICHAEL OAKESHOTT

ON HUMAN CONDUCT

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MICHAEL OAKESHOTT

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To
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Preface

PHILOSOPHICAL reflection is recognized here as the adventure of one who seeks to understand in other terms what he already understands and in which the understanding sought (itself unavoidably conditional) is a disclosure of the conditions of the understanding enjoyed and not a subsitute for it. Its most appropriate expression is an essay where the character of the utterance (a traveller's tale) matches the character of the engagement, an intellectual adventure which has a course to follow but no destination. A philosophical essay leaves much to the reader, often saying too little for fear of saying too much; its attention is concentrated, but it does not stay to cross all the ts of the argument; its mood is cautious without being defensive; it is personal but never merely 'subjective'; it does not dissemble the conditionality of the conclusions it throws up and although it may enlighten it does not instruct. It is, in short, a well-considered intellectual adventure recollected in tranquillity.

The following work is composed of three connected essays. Each has its own concern: the first with theoretical understanding and with human conduct in general and the engagement of theorizing it; the second with an ideal mode of human relationship which I have called civil association; and the third with that ambiguous, historic human relationship commonly called a modern European state. But if the second (the engagement to understand the Civil Condition in terms of its postulates) is taken as its central concern, then the first may be read as a consideration of some of the terms and presuppositions of that engagement, and the third as some account of the engagement to constitute and to understand a modern European state as a kind of human relationship and the place which the idea of civil association has occupied in this enterprise.

The themes explored here have been with me nearly as long as I can remember; but I have left the task of putting my thoughts together almost too late and the reader must forgive me if I have consequently gone slowly in order to avoid being flustered. And

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when I look back upon the path my footprints make in the snow I wish that it might have been less rambling.

I am grateful to Mr. J. D. Mabbott for his kindness in reading the proofs.

Easter 1974 M.O.

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I On the Theoretical Understanding of Human Conduct

I

The theme of this essay is human conduct and the engagement to understand it. And I shall begin with a brief account of what I take understanding to be.

1. Understanding is not such that we either enjoy it or lack it altogether. To be human and to be aware is to encounter only what is in some manner understood. Thus, it may be said that understanding is an unsought condition; we inexorably inhabit a world of intelligibles. But understanding as an engagement is an exertion; it is the resolve to inhabit an ever more intelligible, or an ever less mysterious world. This unconditional engagement of understanding I shall call 'theorizing'. It is an engagement to abate mystery rather than to achieve definitive understanding.

The features of this engagement are: a 'going-on' attended to; a reflective consciousness attending to it and concerned to understand it, a theorist; an inquiry designed and undertaken by a theorist in which he seeks to understand a 'going-on', theorizing; and what emerges from this enterprise, a theorem.

A first inspection of these features discloses the following considerations. The 'going-on' in which this engagement notionally begins is specific, although its specification may be sketchy. It is not merely looked at; it is noticed, distinguished (often with some difficulty) in all that may be going on, attended to, recognized, taken hold of, and in some degree identified. Thus, although this 'going-on' is recognized as a 'given', it is not a mere gratuity; it is itself an achievement in understanding and not therefore (in its distinctness) independent of reflective consciousness. And although in its distinctness it is inseparable from reflective consciousness, it is not merely a self-observation of reflective consciousness. It is a 'something-in-particular' which, in reflection, disengages itself to us from the unconditional (and therefore unrecognizable) confusion of all that may be going on. The immediate intelligibility of

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such a 'going on' is not accidental to it; this intelligibility is what we learn in distinguishing this 'something-in-particular'. And subsequent inquiry (if it is undertaken) is learning to enhance it. Nor does reflective consciousness supervene accidentally upon the confusion of all that may be going on; its reflectiveness is the recognition of itself as a 'going-on' distinguished in this same confusion.

The engagement of understanding, then, begins in an already understood: a verdict, or what we ordinarily call a 'fact'. But this verdict is the contingent starting-place of a critical inquiry; it is an understanding waiting to be understood. This first account which a theorist gives to himself of a 'going-on' has, like all understanding, a conditional sufficiency; but for him it is an invitation not to accept but to interrogate it. What he has given to himself as an answer to the question, 'what is going on here?', he now recognizes as a question to be answered. Nevertheless, the undertaking to theorize (that is, to go on learning to understand) does not begin only when this enterprise of interrogation supervenes upon the activity in which an intelligible 'going-on' is elicited from the unrecognizable confusion of all that may be going on, is noticed and recognized. These are conditionally distinguishable gradations in a continuous and unconditional engagement of learning to understand which is well on its way in even the most exiguous acts of attention. Thus, there can be no absolute distinction between 'fact' and 'theorem'. A fact has no finality and no authority over further adventures in understanding: it is a first and conditionally acceptable understanding of a 'going-on'. And a theorem is not an unconditional terminus; it, also, is an understanding waiting to be understood. What distinguishes a theorist is his undistracted concern with the unconditional, critical engagement of understanding in which every understanding (be it 'fact' or 'theorem') is recognized as a not-yet-understood and therefore as an invitation to understand.

The engagement of understanding is, then, a continuous, self-moved, critical enterprise of theorizing. Its principle is: Never ask the end. Of the paths it may follow, some (we may suppose) will soon exhaust their promise. It is an engagement of arrivals and departures. Temporary platforms of conditional understanding are always being reached, and the theorist may turn aside to explore them. But each is an arrival, an enlightenment, and a point

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of departure. The notion of an unconditional or definitive understanding may hover in the background, but it has no part in the adventure.

I am not here concerned to fill in this sketch systematically,[1] to explore all the questions it suggests but leaves unanswered, to embark upon the adventure of theorizing the engagement of theorizing. And I propose to say no more than is needed to identify theorizing a little more fully and then only in relation to my concern with what it is to theorize human conduct.

2. Intelligibles emerge out of misty intimations of intelligibility when noticings become thoughts and when, in virtue of distinguishing and remembering likenesses and unlikenesses in what is going on, we come to inhabit a world of recognizables. These recognitions may often be vague, obscure, and tentative, and often mistaken; that is, unlikes mistaken for likes and likes for unlikes. But continually gone over, rehearsed, revised, and refined they endow what is going on with the intelligibility of familiar characteristics. And every achievement is also an investment. The language of noticing, recognizing, and remembering resemblances and differences is a language of characteristics. Shapes, sizes, colours, textures, movements, sounds, scents, tastes, etc., are distinguished and attended to, not-yet-named recurrences are remarked, and not-yet-named connections observed. The limits of this least adequate understanding are severe, but its constant

[1] My sketch owes much to a brief vocabulary in which the ancient Greek language delineated the engagement of understanding. *Thea*: a spectacle, the observation of a 'going-on'. *Theorein*: to distinguish, attend to, and perhaps to identify a 'going-on'. *Theoros*: a spectator concerned to follow and to understand a 'going-on'; a theorist. *Theoria*: the activity of contemplating, of inquiry and of seeking to understand; theorizing. And *theorema*: what emerges from this activity, an understanding of a 'going-on'; a theorem.

This vocabulary has the virtue of distinguishing 'theorizing' from 'theorem', a distinction obscured in its English counterpart where the word 'theory' is used indifferently for the enterprise and its outcome. And it centres our attention upon the engagement, thus suggesting that we may more profitably ask ourselves, what is theorizing? than, what is a theorem? What is the relation between theorizing and doing? than, what is the relation between theory and practice?

Further, my use of 'theorizing' as a transitive verb is not an inadvertence; it is the recognition of the enterprise as one of learning to understand; that is, as a transitive engagement. The undertaking in which a 'theory of genetic inheritance' emerges is a further learning to understand what has already the intelligibility of distinctness (e.g. the facial resemblances of parents and children). The 'theory' is not 'another thing'; it is this intelligibility raised to a level which I shall later try to specify.

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exercise increases its resources. It becomes more exact and more confident when recollection (the self-conscious recall of recognizables) is added to remembering, when recognition is in terms of words, when thoughts take more definite shapes in ideas, when abstraction becomes more discriminating, when experiences are made to serve inferences, and when new experiences become more readily recognizable because they have been anticipated in educated imagination. But, however, it is extended, what is going on thus understood is a largely mysterious scene composed of characteristics in search of characters.

The wanderings to and fro of understanding in the tentative terms of the recognition of characteristics, always on the margin of unintelligibility, is abated when characteristics are detached from their contingent circumstances and are combined to compose the features of ideal characters. Indeed, even what I have called 'recognition' itself postulates some measure of this activity: characteristics are themselves rudimental ideal characters. Such a character is a reflective composition which may begin by being no more than a sketch. It emerges from a selection, combination, and arrangement of characteristics in which recollection has superseded remembering, in which observation is directed by anticipatory guesses, and in which the characteristics upon which attention is focused cease to be recognized merely in terms of resemblances and differences and merely as indications of one another and are understood as the lines or marks which together delineate a conceptual identity.

Understanding here becomes identification: 'goings-on' understood in terms of ideal characters specified as compositions of characteristics. And since these ideal characters have themselves emerged in the enterprise of specifying 'goings-on' as compositions of characteristics, delineating an ideal identity and identifying a 'going-on' are interdependent components of a single activity of seeking to understand. In the engagement of understanding identification is inextricably a 'going-on' understood and a contribution to the delineation of an ideal character. The understanding and the instrument of understanding emerge together.

Thus, to recognize is to distinguish an otherwise unknown *this* from an otherwise unknown *that* in terms of a characteristic: an unknown Peter from an unknown Paul as two different manners of walking, a *this* from a *that* in respect of its taste, a question from an

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answer by the question mark, a moral proposition by the presence of the word 'ought'. To identify, on the other hand, is to specify a *this* in terms of an ideal character composed of characteristics; it is to understand a 'going-on' as a unity of particularity and genericity.

By identification, then, I mean an understanding in which we take a hold upon 'goings-on', not in terms of casual and marginal resemblances and differences of recognizable characteristics, but in terms of ideal characters specified as compositions of characteristics. In identifying a 'going-on' we do not need to announce the specifications we are relying upon, but if we are asked to account for our conclusion we can only point to the marks which specify an ideal character and to the manner in which they are represented in what we are attending to as the reasons for it: 'for these reasons I understand that what I am attending to is a dance, a book, a wild flower, a proposition, a performance of *King Lear*.'

Identification is, of course, fallible; as at every other level of understanding, mistake is possible, and mistake here is confusion. But identifying is itself a procedure in which doubts are entertained and resolved or not resolved, suspicions and guesses are confirmed or not confirmed, and misidentifications corrected. Such conclusions as, 'not a boy but a dwarf', 'not a bird but a kite', 'not a court of law in session but a scene in a play', are its characteristic outcomes.

The hold it gives upon a 'going-on' may often be insecure. Some of the recognized features of the 'going-on' may point in one direction and others in another; or, from a different point of view, some specifications of a conjectured identity may not be satisfied and others may be satisfied only in part. But these indeterminacies are discrepancies between understandings which reveal themselves only in an attempt to identify and their emergence is, thus, a contribution to understanding. The aim in identification is not to secure a knock-down conviction at any cost; it is to understand. And in every 'going-on' identified there remains an imperfectly resolved tension between particularity and genericity.

An ideal character (the instrument of identification) may be a crude or a comparatively sophisticated construction; it may be simple or relatively complex; it may be composed of few or of many characteristics. And a 'going-on' first understood in terms of few and crude characteristics may subsequently be reidentified in terms of a more refined ideal character: the dance understood as a

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fandango, the book as a copy of Hume's *Enquiry*, the proposition as a moral proposition, the performance of *King Lear* as the production of a particular director. This reidentification is not the correction of a mistake; the new understanding neither denies nor excludes what went before.

Thus, a 'going-on' identified is always as intelligible as the terms in which it is being understood allow it to be. I do not need to understand what I have dug up in the garden as 'a round metal object' *before* I can understand it as a 'Roman coin'; nor do I need to perceive 'marks on paper' before I can discern 'a page of writing', or to understand 'a page of writing' before I identify it as 'Latin' or as 'an argument designed to justify'. There are no so-called minimum epistemological conditions to be satisfied *first*. A symbol is not an 'object' in advance of being recognized as a symbol, and a picture does not need to be recognized as 'paint on canvas' before it is understood or misunderstood as 'a work of art'. And while each of the features of a complex 'going-on' such as, 'the Pleiades are shining brightly in the west, it is very cold and I am alone in the world' may be understood in terms of an ideal character and may be reidentified in more exact terms, the 'going-on' remains an individual composition, a unity of particularity and genericity, in which each component is what it is in virtue of what it contributes to the delineation of the whole.

Understanding what is going on in terms of ideal characters composed of characteristics is, then, a considerable advance upon understanding in terms of the mere recognition of characteristics which are not yet recognized as features of ideal characters. This world composed of identities may remain a somewhat mysterious world of occurrences and recurrences, but mystery has receded; it has acquired the condition of 'facts' understood.

But a 'going-on' identified in terms of an ideal character itself specified in terms of characteristics is not only an understanding of a certain sort (namely, a verdict); it is also an invitation. It invites the theorist to extend his understanding of it by investigating its relationships with other such identities. Indeed, theorizing here has reached what I shall call a platform of conditional understanding which invites exploration.

The condition (the uncriticized assumption) which constitutes this platform of conditional understanding is that every 'going-on' is

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what it is in respect of being understood in terms of an ideal character specified as a composition of characteristics. This condition allows for the correction of misidentifications and it permits reidentifications, but it excludes any interrogation which calls in question the conditional sufficiency of the identities themselves. Understanding, here, is concerned with unproblematical verdicts.

To explore this platform of understanding is to seek connections between the identified 'goings-on' which are its unproblematic features. And the outcome of this exploration is an understanding in which different identities may be linked with one another in respect of their common characteristics or of the circumstances of their individual occurrence; in which they may be related, correlated, juxtaposed, concatenated, joined and conjoined, matched, paired, grouped, compared, classed and reclassed in respect of various common characteristics; in which alliances, congruences, correspondences, parallelisms, appositions, etc. may be established; in which they may come to be understood as irreducible parts of composite identities, like the bricks which compose a wall or the cards which make up a 'pack'. And these relationships may be plotted on graphs, expressed in mathematical ratios, and (in certain circumstances) displayed in terms of probabilities. In short, the exploration of this platform of understanding is a conditional adventure in theorizing committed to 'saving the appearances' of the identities which compose it, the outcome of which is a map upon which their relationships to one another are exactly displayed. The theorems in terms of which this hold is taken upon these identities specify arrangements of uncompromised 'facts'. Each identified 'going-on' remains an unquestioned verdict. Comparison, for example, postulates 'goings-on' whose identities are unproblematic.

Moreover, this platform of conditional understanding, composed of identities each understood in terms of an ideal character specified as a composition of characteristics and whose relationships have been investigated and recorded on maps, is also eligible to be explored in conduct. Here, identification is diagnosis; that is, a verdict recognized as an invitation to illustrate what is being understood in the performance of an action. Thus, the identities disclosed in 'this is a case of measles', 'that is a bank robbery', 'guilty but insane', and 'this is combustible' are diagnoses when they are understood to prescribe utterances such as 'isolate the

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patient', 'sound the alarm', 'detain during Her Majesty's pleasure', 'put it on the fire', or performances which correspond to these utterances. Or, conversely, an utterance which provokes laughter is an utterance diagnosed as a 'joke', and the understanding entailed is specifiable as 'seeing the joke'.

These invitations are conditional, and their acceptance constitutes a suspension of the unconditional critical engagement of understanding in which the appearance of an assumption is a signal for it to be interrogated. But we do not need to search far and wide for reasons why the engagement should be arrested at the level of identification, or why the theorist should turn a deaf ear to his calling and devote himself to the exploration of this platform of conditional understanding, making a map of it, or recognizing an identity as an invitation to act; they are ready to hand. These 'goings-on' abstracted from all that may be going on, understood in terms of ideal characters specified as compositions of characteristics, and related to one another in terms of their common features or in respect of the circumstances of their occurrence, are intelligible. Why should he not enjoy this intelligibility if it is equal to his needs? The puzzle, if any, is why he should ever feel the urge to leave this world of satisfying and useful verdicts.

3. Our concern, however, is with the unconditional engagement of understanding and with the theorist for whom 'facts' are understood but are also waiting to be understood and not merely to be related to one another or to be used, and to whom this (or, indeed, any other) platform of conditional understanding is something of a prison from which he seeks release. How shall he resume his engagement of critical inquiry and thus recover his laid-aside character as a theorist?

He may do so in recognizing an identity not as a verdict to be accepted but as an invitation to interrogate it. It is to be expected that he will tinker with his identities, abstracting them more decisively and specifying them more exactly in order to endow them with characters capable of being investigated; for, only a 'going-on' purged of ambiguity qualifies as an identity waiting to be understood and prescribes an inquiry. But his exertions will be rewarded when, almost without premonition, he finds himself to have acquired a new employment. His enterprise now is to make his identities more intelligible, neither by reidentifying them in a

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reconsideration of their component characteristics, nor by relating them more decisively to one another in terms of their features and of the circumstances of their occurrence, but by seeking to understand them in terms of their postulates; that is, in terms of their conditions.

Thus, a theorist is not provoked to this enterprise by his recognition of identities as compositions of characteristics (these he already understands, perhaps as well as they may be understood), but by what in such identities he does not yet understand; namely, their conditionality. In turning his critical attention to this conditionality he is released from the prison of his current understanding; and in identifying the component conditions of this conditionality and in making these postulates the terms of his understanding he comes to occupy a new platform of conditional understanding.

A platform of conditional understanding is constituted by its conditions which, from different points of view, may be recognized as assumptions or as postulates. To occupy and to explore such a platform is to engage in interrogative adventures among identities, adventures which do not question these conditions but are contained by them. To read the face of Big Ben (that is, to 'tell the time') postulates and *therefore* does not question the idea 'time'; 'time' here is unproblematic; the problem is, 'What is *the* time?' And to understand a 'going-on' such as 'my friend Tom considering which of two hats he shall buy' postulates and *therefore* does not interrogate the ideas 'deliberation' and 'choice'. And a theorist, attending to a 'going-on' understood in terms of an ideal character specified as a composition of characteristics, but engaged to understand it in terms of its postulates, may be said, alternatively, to be seeking to understand a familiar identity in terms different from those in which it is already understood, or to have replaced one subject of inquiry by another.

Thus, a 'going-on' abstracted from all that may be going on, attended to and identified as a 'thunderstorm' in terms of an ideal character whose features are noise, flashes of light, an oppressive feeling in the air, torrents of rain, etc., may be reidentified in terms of more closely specified characteristics (e.g. the colour or intervals of the flashes), and its relations with other such identities may be explored; but when it is understood in terms of the theorems of electro-magnetism and as an example of the operation of the 'laws'

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alleged to relate to electrical discharges it is being understood in relation to an ideal character not recognized as a composition of characteristics but specified as a system of theorems alleged to be its postulates.

But a theorist who makes this transfer of attention from characteristics to postulates has embarked upon an adventure in understanding which must soon carry him far out of sight of what he purports to be seeking to understand. For what he first discerned as the postulates or conditions of a particular identity and used as an instrument for understanding *it*, demand to be recognized as identities on their own account. And in attending to them, not as the postulates of that which had invited investigation (not, that is, as conditional instruments of understanding), but as themselves understandings to be investigated, he is occupying and exploring a platform of understanding from which the identities they may be used to explain are excluded. He is no longer concerned with a 'thunderstorm' but with the now *problematic* theorems of electromagnetism.

Thus, a 'going-on' understood in terms of its characteristics may be identified as a 'tug-of-war'; but to theorize it in terms of postulates is to set foot upon and to explore a platform of understanding composed of theorems of (say) 'mechanics' among which the 'tug-of-war' (although it also, in its modest way, is a theorem) has no necessary place and in relation to which it is no more than one of an untold number of contingent 'goings-on' from which an identity capable of being understood in the terms of 'mechanics' may be abstracted. And if the theorist were to go on to recognize the conditionality of this new identity (a science of 'mechanics') and were to investigate the postulates of these theorems he would have exposed for exploration a further platform of understanding. Boyle's 'law' is not a gas, and a theorem explanatory of comic situations is not itself a joke. The 'law' and the theorem may each be recognized as a postulate and may be used as an instrument of understanding, but they cannot escape recognition as themselves invitations to understand; and the postulates in terms of which the 'law' or the theorem may themselves be understood are at two removes from the identities these may respectively be used to explain.

Moreover, the theorist who takes this path does not merely open the door upon, and declare his interest in, a special engagement where postulates are identities waiting to be understood and not

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instruments of understanding, and in which questions are asked not in order to be answered but so that they may themselves be interrogated in respect of their conditions; he recognizes this to be the character of the engagement of understanding and he acknowledges his calling to be that of a 'philosopher'. Here, theorizing has revealed itself as an unconditional adventure in which every achievement of understanding is an invitation to investigate itself and where the reports a theorist makes to himself are interim triumphs of temerity over scruple. And for a theorist not to respond to this invitation cannot be on account of his never having received it. It does not reach him from afar and by special messenger; it is implicit in every engagement to understand and is delivered to him whenever he reflects. The irony of all theorizing is its propensity to generate, not an understanding, but a not-yet-understood.

Nevertheless, the engagement of understanding is not unconditional on account of the absence of conditions, or in virtue of a supposed terminus in an unconditional theorem; what constitutes its unconditionality is the continuous recognition of the conditionality of conditions. And consequently, this engagement to be perpetually *en voyage* may be arrested without being denied. The theorist who drops anchor here or there and puts out his equipment of theoretic hooks and nets in order to take the fish of the locality, interrupts but does not betray his calling. And indeed, the unconditional engagement of understanding must be arrested and inquiry must remain focused upon a *this* if any identity is to become intelligible in terms of its postulates. An investigation which denies or questions its own conditions surrenders its opportunity of achieving its own conditional perfection; the theorist who interrogates instead of using his theoretic equipment catches no fish.

Thus, every specific undertaking to understand a *this* is the exploration of a conditional platform of understanding. Its starting-place is an identity understood and not yet understood, and its conclusion is this identity transformed by being understood in terms of its postulates. Each is an autonomous adventure in theorizing, insular, inextinguishable, resistant to 'reduction', having its own conditional 'truth', and capable of its own conditional perfection. In every such conditional inquiry there is a recognition of the unconditional adventure of theorizing and this qualified in terms of an identity understood and waiting to be

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understood. And since the undertaking to theorize 'human conduct' is a conditional engagement of this sort, I must consider briefly what more is entailed in the enterprise of understanding a specified identity in terms of its postulates.

4. Understanding is concerned with the intelligibility of ideal characters and it may be concerned with the intelligibility of 'goings-on' in terms of these ideal characters. The gross undifferentiated sum (so to say) of what is going on is incapable of being characterized; it prescribes no inquiry, it remains for ever speciously ambiguous and therefore unintelligible. And a 'going-on' in respect of its bare particularity is neither intelligible nor capable of inviting investigation in which it may become intelligible. A specific engagement to understand begins in a 'going-on' abstracted from all that may be going on and understood in terms of an ideal character specified as a composition of characteristics, a unity of particularity and genericity. And when, as part of that understanding, the identity is apprehended as a not-yet-understood, it is recognized as an invitation to an inquiry designed to expose and specify its postulates, to relate them systematically to one another, and, by displaying them as the postulates of *this* identity, to make it intelligible.

But to become the subject of such an inquiry, an identity must not only be recognized to be predicative (that is to be a not-yet-understood predicating an inquiry), but to be *a* predicament; that is, to be a not-yet-understood which predicates what I shall call the 'order' of the inquiry in which it may come to be understood. Thus, the formal condition of every specific engagement to understand is that the identity to be investigated shall have been abstracted and composed in such a manner as to be categorially unambiguous, the word 'category' being used here in the strict sense of that which predicates the 'order' of the inquiry in which an identified 'going-on' may come to be understood. And I say 'an order of inquiry' because what is predicated is never the questions to be asked (these must be left to the theorist), but only the kind of questions to be asked. A categorially ambiguous identity is one which predicates no inquiry because it is incapable of prescribing a particular 'order' of inquiry.

There are two categories of identities to be reckoned with, predicating categorially different 'orders' of inquiry. To the first

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belong 'goings-on' the identification of which includes the recognition that they are themselves exhibitions of intelligence: for example, a 'going-on' identified as itself an engagement to understand (a biologist at work, the engagement of the audience at a play, a boy learning Latin), a 'going-on' identified as a human action (that is, an agent responding to an understood situation meaning to achieve an imagined and wished-for outcome), a subscription to a 'practice' which requires to be understood in order to be participated in, a work of art, an artefact, an argument, a barrister addressing a court of law, an expression of moral sentiment, a statement of belief or of policy, etc. These identities and their likes, when recognized as not yet understood, predicate an inquiry in which, by coming to be understood in terms of their postulates, the mystery of their characters and occurrence is abated. The detailed character of this order of inquiry is to be considered later in this essay; here, no more need be said than that these postulates must be theorems concerned with the understandings which constitute these identities. Theorizing here is seeking to understand identities specified as expressions of reflective intelligence.

To the second category belong 'goings-on' recognized, in virtue of their characteristics, *not* themselves to be exhibitions of intelligence: for example, a rock formation, a wave breaking on the shore, metal fatigue, a thunderstorm, a butterfly on the wing, the facial resemblances of children and parents, a chameleon changing colour, melting ice, etc. These 'goings-on' and their likes, in virtue of being identified, are, of course, understood. But, since as part of that understanding they are recognized both as not yet understood and as 'goings-on' which are not themselves exhibitions of intelligence, they predicate an inquiry into their conditions and they predicate also conditions which somehow 'determine' (and thus make intelligible) what is going on but which do not require to have been learned, to be understood, and to be assented to in order to be operative: for example, so-called 'causal' conditions. (A falling apple does not need to have learned a 'law' of gravitation in order to fall.) And understanding such an identity is specifying it as an example of the operation of such conditions. The ideal character in terms of which 'goings-on' thus identified and categorized are to be understood may be said to be that of a 'process' and not that of a 'procedure'.

Adventuring into Yucatan, I may perceive a 'going-on' which,

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in perceiving it, I identify as the ruins of a Maya temple; that is, as a human artefact, an expression of intelligence. And if, as part of that understanding, I recognize it as a not-yet-understood it predicates an 'order' of inquiry in which it may come to be understood in terms of its postulates. Since it is an artefact, these postulates are themselves understandings. They may be Maya religious beliefs, rituals, etc., extending to the religious history of this people. Or, if what I perceive is the ruin of an architectural construction, my theorizing will be concerned with its design and with its materials understood as the outcome of choice, circumstance, and acquired skill. And its ruinous condition will be understood as a historical event, the outcome of such neglect or design as the evidence may point to. In short, my inquiry will be concerned with human beliefs and understandings, with actions recognized as responses to understood situations, with events, and with customs, practices, and uses. But if, instead, I were to abstract and identify a 'going-on' specified as a collapsed physical structure or a process of chemical change, and were to understand it as a not-yet-understood, the 'order' of inquiry predicated and the theorems in terms of which this identity might come to be understood would be of a categorially different kind. The identity I would have before me would not be an expression of reflective consciousness and the instrument of understanding would be an ideal character composed of the 'laws' or causal conditions which specify a 'process', not a 'practice'. This process may be strictly articulated or it may be a comparatively loose composition of propensities, but its determinateness or indeterminacy is not a result of its components having learned and understood their parts well or ill.[1]

This distinction, then, between 'goings-on' identified as themselves exhibitions of intelligence and 'goings-on' which may be made intelligible but are not themselves intelligent, is not a distinction between mental and physical or between minds and bodies regarded as entities. It is a distinction within the engagement of understanding, a distinction between 'sciences' (that is, ideal

[1] The notion that the categorial gap is narrowed or even bridged when relationships between identities are understood in terms of probabilities is, of course, an illusion. A relationship may be understood as a probability only when the identities concerned are already recognized as the components of what I have called a 'process'. And a probability is no more 'uncertain' than the most determinate causal relationship.

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characters) and the identities with which they are concerned. And in calling it a categorial distinction what is being asserted is that the understanding of identities recognized as themselves exhibitions of intelligence cannot be 'reduced' to the understanding of identities not so recognized. 'A biologist at work' (or any other exhibition of intelligence) cannot be understood in terms of the theorems of a science of biology, not because a process of biochemical change cannot be abstracted from this 'going-on' but because this biochemical process is *ex hypothesi* incapable of self-understanding. And the contention that all exhibitions of intelligence may themselves be understood as examples of the operation of 'laws' (psychological or sociological) of human understanding recognized as itself a 'process' is vetoed by the consideration that the theoretical engagement in which such 'laws' might be formulated must (within the terms of the contention) also be understood as an example of the operation of the same 'laws', which is categorially absurd.[1]

Identities in respect of their categories and inquiries in respect of their 'orders' are, then, exclusive of one another. A categorially unambiguous identity is the condition of every significant adventure in theorizing, and the recognition of the category of the identity concerned is the first step in every such adventure. Thus the movement of a human eyelid is a categorially ambiguous identity; it may be a wink or it may be a blink, a wink which is an exhibition of intelligence, a subscription to a 'practice' and has a reason, and a blink which is a component of a 'process' to be understood in terms of a 'law' or a 'cause'.

Contingently, and where identification is diagnosis predicating response in a performance, it is important that the 'going-on' should not be categorially misidentified, otherwise an irrevelant response will be made: the wink, misidentified as a blink, will be neglected as not looking for such a response. But in respect of the engagement of understanding, this is of no importance; what matters there is that, whatever the verdict (wink or blink), the

[1] When a geneticist tells us that 'all social behaviour and historical events are the inescapable consequences of the genetic individuality of the persons concerned' we have no difficulty in recognizing this theorem as a brilliant illumination of the writings of Aristotle, the fall of Constantinople, the deliberations of the House of Commons on Home Rule for Ireland and the death of Barbarossa; but this brilliance is, perhaps, somewhat dimmed when it becomes clear that he can have nothing more revealing to say about his science of genetics than that it also is *all* done by genes, and that this theorem is itself his genes speaking.

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'order' of inquiry it predicates should be recognized. And the certainty that, at some near or distant point in the engagement (where what is being theorized becomes and remains itself the engagement of theorizing), only the first of these categories survives, is irrelevant to us who are, here, concerned with arrests in that engagement where the liability to categorial confusion is to be reckoned with.

Related to this there is a further consideration (already noticed) about which something more must be said. To become the subject of an inquiry designed to make it intelligible in terms of its postulates, an identity must be recognized not only to be 'problematic', but to be a specific problem; that is, it must be recognized to be unambiguous not only in predicating what I have called an exclusive 'order' of inquiry but also in prescribing what I shall now call a particular 'idiom' of inquiry. For a categorially unambiguous identity may still have contingent ambiguities which must be resolved before it can become the subject of an inquiry.

For example, a 'going-on' identified, in terms of its characteristics, as three intersecting lines on a piece of paper is categorially ambiguous; it may be recognized, but it cannot be recognized as a not-yet-understood and consequently it invites no inquiry. This categorial ambiguity may be resolved in identifying it as an exhibition of human intelligence. But the ideal character 'exhibition of human intelligence' is itself ambiguous. Thus, the 'going-on' may be identified simply as an occurrence, the outcome of a human action, or it may be identified as a symbol (a design for a trade mark, for the emblem of a religious faith or a political party, or for a sign denoting what should or should not be done: 'no entrance'), or it may be identified as a work of art, the childish representation of a wigwam, etc., etc. Each of these identities and their like is recognizable as a not-yet-understood waiting to be understood because each prescribes not only an 'order' of inquiry but also (within that 'order') a particular idiom of inquiry. The ideal characters, 'historical occurrence', 'symbol', and 'work of art', are idiomatically (but not categorially) different from one another. And in default of an idiomatically distinct identity there can be no inquiry. On the other hand, the categorial ambiguity of this 'going-on' may be resolved in the opposite direction; but here again alternatives present themselves. It may, perhaps, be identified

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as a geometrical figure (a triangle) prescribing an inquiry into its geometrical postulates, or it may be identified in terms of its materials (paper and ink) thus prescribing an inquiry into a chemical process, and so on. And here, again, there is a not-yet-understood capable of being investigated because there is the prescription not only of an 'order' of inquiry (that appropriate to non-intelligent 'goings-on'), but also of a particular idiom of inquiry, geometrical or chemical.

Alternatively, it may be said that a theorist, committed to that arrest in which the engagement of understanding becomes the enterprise of understanding an identified 'going-on' in terms of *its* postulates, has at his disposal (actually or potentially) a variety of what I have called 'idioms' of inquiry. Each such idiom is an unambiguous system of theorems which has acquired (or which aspires to) the condition of a distinguishable 'science'; that is, the always unfinished ideal character composed of theorems which it is the concern of a theorist to construct, and used here as an instrument of understanding. Thus, for example, within the 'order' of inquiry concerned with 'goings-on' identified as exhibitions of intelligence, ethics, jurisprudence, and aesthetics are distinguishable idioms; and physics, chemistry, and psychology are similarly distinguishable idioms within the 'order' of inquiry concerned with identities specified as components of a 'process'. And while the 'sciences' which fall within an 'order' of inquiry are not categorially exclusive of one another and therefore may suffer 'reduction' (e.g. chemistry to physics), each is autonomous in being constituted in terms of theorems exclusively its own, and each is capable of its own conditional perfection.

As an instrument for understanding a 'going-on', an ideal character of this sort (a 'science') purports to distinguish and expose the postulates of the identity waiting to be understood, and theorizing this identity purports to be understanding it in terms of this system of theorems.[1] But every such understood 'going-on' is necessarily the creature of the ideal character in terms of which it is being understood. An investigation in which the instrument of understanding is such a system of theorems (a 'science') itself

[1] 'Scientific' understanding is not concerned with identities as compositions of characteristics, and the correlation or comparison of identities in these terms is merely an apology for the absence of scientific inquiry. A feature or a symptom is never a cause or a postulate.

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designates the identity investigated and gives it the required unambiguous character by endowing it with the categorial and idiomatic unambiguity of the ideal character concerned. Indeed, the virtue (and the conditionality) of a 'science' as an instrument of understanding is that it designates an idiomatically unambiguous identity as the subject of investigation.

Thus, when Lord Kelvin said that he could understand anything if he could make a mechanical model of it, he confessed to a disposition (where understanding was concerned) to abstract from all 'goings-on' a genetically mechanical identity and to make this the subject of his inquiry. His command over the theorems of 'mechanics' was used both to abstract this identity and to make it intelligible. And he might plausibly contend that no 'going-on' identified in terms of its characteristics was impervious to this treatment: a rock-formation, a boy on a bicycle, a waterfall, Westminster Abbey, the circulation of money in an economy, a man going upstairs to bed or posting a letter, or a volume of Racine's plays standing on a bookshelf, each might be subjected to it. But it was a muddled way of speaking to describe this as 'making a mechanical model *of it*'; what he did was to abstract a mechanical identity *from it* and to make this the subject of his inquiry.[1]

To be concerned to understand in terms of its postulates a 'going-on' identified in terms of its characteristics is, then, an arrest in the unconditional engagement of theorizing. It entails, alternatively, either the abstraction and recognition of a categorially unambiguous identity predicating an 'order' of inquiry and (within that 'order') a particular idiom of inquiry, or the command of an idiom of inquiry capable of abstracting, designating, and making intelligible a categorially unambiguous identity.

Each such idiom of inquiry may be supposed to have sprung from patient and tentative engagements to elicit their postulates from 'goings-on' relieved of some of their ambiguity by the care with which they have been abstracted and identified in terms of their characteristics: ethics from an identification of moral conduct

[1] This point is made (although with some philosophical *naïveté*) in a sentence of Dirac's: 'Nature's fundamental laws do not govern the world as it appears in our mental picture in any very direct way, but instead they control a substratum of which we cannot form a mental picture without introducing irrelevancies.'

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and utterance, jurisprudence from legal systems, economics from business transactions, geology from rocks, biology from organisms, crystallography from crystals. But as an ideal character composed of theorems begins to emerge from these identificatory engagements, the concern of the theorist recedes from the identities which first held his attention and becomes that of investigating this character. The aspiration to endow it with the condition of a 'science' outwits the urge to use it to explain contingent 'goings-on', and the naïve notion that these theorems may be verified in the successful or falsified in the unsuccessful prediction of the occurrence of such 'goings-on' is put aside: the abstraction of 'experiment' concerned with ideal characters takes the place of the abstraction of observation concerned in concrete occurrences. But in so far as it achieves this condition it may be confidently used as an instrument for understanding, in its own conditional terms, what is going on.[1] Thus, a command of the theorems of mechanics will enable a theorist to abstract a mechanical identity from a balancing act in a circus and to display it as a parallelogram of forces; but he will have to think in different terms if he is to understand an identity abstracted and specified in the programme as, 'Stello and Stella in their world-famous act, as performed in London, Madrid, Berlin, Rome, and Skibbereen: the acme of the art of the equilibrist', for this is certainly not a 'mechanical' identity.

No doubt the theorist who has turned aside from the unconditional

[1] This should be distinguished from the idea of an 'applied science'—the lingering superstition that the theorems of a science are not only the specifications of an ideal character and the postulates in terms of which the identity (e.g. a mechanical identity) they specify may be understood, but that they are also the postulates (or even the 'determinants') of any 'going-on' (e.g. Westminster Abbey) from which an identity corresponding to this ideal character may be abstracted. To say that the postulates of 'skating' are the theorems of dynamics is either a false or a tautologous proposition.

Further, it excludes the muddled notion that a complex ambiguous identity is composed of a multiplicity of simple unambiguous identities and is itself to be made intelligible in terms of the theorems of what is called (after Mill) 'an intermixture of sciences': 'a man sitting in front of his fire after his day's work and reading a book' recognized as an identity to be understood in terms of the theorems of physics, optics, biology, genetics, psychology, ethics, economics, sociology, etc., etc.

And, of course, an understanding of an identity in terms of its postulates is not to be confused with the prediction of the occurrence or the recurrence of a 'going-on' from which this identity may be abstracted.

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engagement of understanding in order to make intelligible to himself an identified 'going-on' will sometimes find his theoretic equipment unequal to his enterprise: there may be no well-articulated ideal character composed of related theorems available to him. This is likely to be the case where he is concerned to understand 'goings-on' identified as themselves exhibitions of intelligence: ethics, jurisprudence, aesthetics, economics, for example, are certainly not contemptibly inchoate 'sciences', but they may scarcely be said to constitute readily usable theoretic ideal characters in terms of which to abstract and to make intelligible moral, legal, poetic, etc. 'goings-on'. In this situation, the theorist must either do his best with what he has got, or he must himself re-engage in the different, more difficult, but also more interesting task of constructing an unambiguous theoretic character (a 'science') which might subsequently be used as an instrument of abstraction and understanding.

But, frustrating as this may be, it is less embarrassing than the offer of categorially ambiguous instruments of understanding; that is, alleged all-purpose 'sciences' on behalf of which it is claimed that they are equipped to theorize both 'goings-on' identified as exhibitions of intelligence whose postulates are reasons, beliefs, and practices, and also 'goings-on' not so identified whose postulates are the regularities of a 'process' or some kind of causal conditions. And in particular there are two alleged 'sciences' whose usefulness as instruments of understanding is qualified because they are themselves infected with this ambiguity: psychology and sociology. And my concern with theorizing 'human conduct' makes it appropriate to say something here about them.

Beyond reasonable doubt there is a genuine 'science' of psychology which has emancipated itself from suspicion of categorial ambiguity. It has emerged from the enterprise of theorizing such 'goings-on' as feeling, being interested, perceiving, being disposed, learning, remembering and forgetting, wanting, wishing, willing, believing, doubting, fearing, discriminating, reasoning, imagining, playing, acquiring habits, etc., etc., identified, not as states of consciousness or exhibitions of intelligence, but as observable processes; that is, understood in terms of theorems which denote regularities which are not themselves exhibitions of understanding and do not have to be learned in order to be operative. That those who devote themselves to this science are often

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inclined to concern themselves merely with characteristics, and that they have not yet fully emancipated themselves from a concern for the comparison and correlation of 'goings-on' in terms of their characteristics is, perhaps, a sign of theoretical immaturity or recidivism. But they have equipped this science with concepts (often borrowed from other sciences) in terms of which to formulate theorems about the postulates of these processes—faculty, instinct, drive, association, reflex, organic tension, function, valence, canalization, tolerance, conservation, latency, threshold, trace, re-inforcement, *prägnanz*, deflection, sublimation, repression, field of perception, configuration etc., etc. And these, like the concepts of physics, are periodically criticized, reformulated, or abandoned, as well as being used. This science has acquired scales of measurement and its theorems are such that they may be plotted on graphs and displayed in diagrams or mathematical equations. And although there has been gross imprudence in the haste with which these theorems have been set to work by technologists to 'explain' goings-on in the world, this science is not without something to offer by way of an unequivocal instrument for abstracting and investigating conditional identities. Like every other science it is capable of its own conditional perfection. But like them it is also unable to resist hypotheses which ally it to what began by being somewhat different investigations (e.g. neuro-physiology and genetics) and thus to prefigure the 'reduction' of the terms in which its theorems are formulated to the categorially similar terms of chemistry and physics. Its theorems are not categorially equivocal and its conclusions (such as they are) are in step with its pretensions.

But alongside this, and often confused with it, there has emerged a spurious intellectual enterprise in which the theorems of this science (which concern so-called 'mental' processes vulnerable to reduction to 'physical' processes) are made to appear as formulations of causal conditions or 'laws' in terms of which to understand 'goings-on' identified as themselves exhibitions of intelligence—expressions of sentiment or belief, arguments, practices, artefacts, intentions, motives, actions, etc. Thus, there are said to be 'psychological mechanisms by which individual buyers and sellers are *motivated* to buy and sell' and in terms of which these intelligent commercial transactions may be explained and understood. The theorems of a science concerned with the process

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of believing are represented as the causes of beliefs; a craving for power or for 'community' is said to be a 'psychological fact', and an acquaintance with the theorems of this science is equated with an agent's understanding of himself and of what he is doing. This, of course, is all a great muddle; psychological mechanisms cannot be the motives of actions or the reasons for beliefs. And so far from it being the case that a science of 'psychic processes is the only valid instrument we have for understanding human actions and utterances', such a science is categorially excluded from providing any such understanding.

And, as if this categorial muddle were not enough, it is now partnered by an alternative confusion. Here, a man's beliefs and sentiments, his motives and his intentions are said to be his 'psychology' and to be that to which his actions and utterances are to be referred in order to be understood: hence such expressions as 'the psychology of Henry VIII', or 'the psychology of the industrial worker'. What a man believes is said to be his 'psychological condition', changes in his beliefs are said to be his 'psychological development', and if his thoughts or emotions are notably incoherent or astray he is said to be in a state of 'psychological crisis'. A novelist who is concerned with the motives and intentions of his characters is called a 'psychological' novelist, and of a biographer it is said that 'he does not dig deeply enough into the psychology of his subject to make his conduct intelligible'. No doubt much of this is no more than journalistic inadvertence, mere verbal confusion, but among alleged scientific writers these expressions enunciate a doctrine. For the design in calling a man's thoughts, sentiments, beliefs, etc., his 'psychology' is to reduce them to the components of a process (commonly called 'ego functioning') to be understood in terms of a temperament, of a so-called 'psychological type', of the *ur*-experiences of infancy, biological urges, genetic inheritance, repressed anxieties, or of environmental pressures—anything but the ideas he has learned (but might not have learned) to think. And when this psychological process is represented as an ideal character in terms of which to understand the actions and utterances of reflective consciousness a categorial confusion has intervened. Human conduct, an exhibition of intelligence, cannot be understood as a response to what in this process are declared to be 'psychic needs'; beliefs, actions, and utterances cannot be, or be the effects of, this 'ego function-

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ing'. The prevalence of astrology, magic, witchcraft, and Satanism in fourteenth-century Europe is not explained by being identified as 'the normal psychological reaction to circumstances of unusual danger and physical suffering'; and gnostic belief cannot be understood as the outcome of a breakdown of trust between father and son. This is categorial rubbish: a belief is what it means to the believer.

Nor is there any validity in the claim that psychology is the science in terms of which to understand certain kinds of human conduct: so-called 'irrational', or 'instinctive', or 'mass' conduct. A psychological process (or, indeed, a physiological, a chemical, or a mechanical process) may, of course, be abstracted from every 'going-on' identified as human conduct, but wherever there is action or utterance there is an intelligent agent responding to an understood (or misunderstood) situation meaning to achieve an imagined and wished-for outcome, and this cannot be 'reduced' to a psychological process or 'structure', however gross the misunderstanding, however lunatic the imagination, however fanciful the wish, and whatever its similarity to the actions and utterances of others. And where there is neither identifiable action nor utterance there is, in the end, only chemistry or physics.

The ideal character constituted by a science of psychology has, then, been blurred and its value (such as it is) as an instrument for abstracting and understanding a 'psychological' identity from human conduct has been obscured in the dust raised by some misconceived intellectual adventures. And sociology may be recognized as a not dissimilar 'darkling plain'

> Where ignorant armies clash by night.

Hidden in the confusion, an unambiguous intellectual engagement is to be discerned; namely, the enterprise of theorizing conduct *inter homines* in terms of the conditions imposed upon it by the multiplicity of more or less durable relationships of human beings ('practices') and of theorizing these relationships in terms of their postulates. Here, the human beings concerned are neither biological organisms identified in terms of their genetic characters, nor 'psychological *egos*', but reflective intelligences whose actions and utterances are choices to do or to say *this* rather than *that* in relation to imagined and wished-for outcomes. And the relationships between them to be investigated are recognized to be themselves expressions of intelligence which may be enjoyed only by

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their having been learned and understood and in virtue of an acknowledgement of the authority of their conditions or of a recognition of their utility. The subject of inquiry in this enterprise of theoretical understanding is actions and utterances in respect of being subscriptions to procedures or 'practices' comprised of rules and rule-like considerations whose postulates are beliefs. It is a science of intelligent procedures, not processes. And it is of no consequence that it can provide an understanding of human actions and utterances no more substantial than (for example) the exiguous understanding provided in the reference of a poem to a literary tradition or to a genre, so long as it does not pretend to offer what it is categorially and idiomatically disqualified from supplying. It is (as will later appear) an engagement of historical understanding of a certain limited sort.

But projects of other kinds, purporting to endow the understanding of human conduct with a superior 'scientific' quality have supervened to distract and to corrupt this genuine but modest enterprise. In the commonest and least equivocal of these 'sociological' projects the identity to be investigated is said to be a 'society': that is, an alleged totality of human relationships. But whether it is because of the palpable difficulty of representing such a totality as itself human beings associated in terms of a specifiable procedure or practice, or because to regard it as a practice and not as a process seems to be no better than an apology for the absence of a 'scientific' understanding, a 'society' is identified as a 'system'. It is recognized as a process to be understood in terms of its regularities or its causal conditions, and not as a procedure whose postulates are reflective intelligence, contingent beliefs, and acknowledgements of authority or utility. Accordingly, this 'system' is said to have a 'structure' which contains and displays functional relationships between its parts or properties. And change in this structure (so-called 'social change') is understood to be a process analogous to the metabolic or evolutionary change of biological organisms. What are called 'cultures' are said to 'evolve' and to survive in a process of 'natural selection'; that is, by proving themselves to be 'adaptively superior innovatory ways of surviving'. Or 'social change' is understood in terms borrowed from physics and represented as an example of entropy. In the more naïve versions of this 'sociological' understanding of human conduct the so-called 'law-like relations between the components of

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social systems' are merely correlations of characteristics. In the more sophisticated versions, the explanatory 'laws' are the alleged psychological or bio-evolutionary 'laws' or causal conditions said to be postulated in the correlations of characteristics. But, however this may be, and whether or not a 'general sociological theory' is made to emerge from this engagement to understand 'social processes', it is remote from anything recognizable as an engagement to theorize human conduct. Theorems about the so-called 'behaviour of social systems', or about the behaviour of their alleged components, can be represented as theorems about the actions and utterances of human beings only in a masquerade of categories.

There remains to be noticed one further entailment of this undertaking to theorize an identity in terms of its postulates. Theorizing when it is concerned with understanding an abstracted identity in terms of its conditions is (so to say) poised between heaven and earth; and there it must remain. This theorizing does not deny the unconditional critical engagement in which conditions cease to be instruments of abstraction and understanding and become themselves subjects of inquiry as soon as they are recognized, but is estopped from pursuing it. An ideal character (e.g. a 'science') cannot be both used and interrogated at the same time, and here the enterprise is to use it as an instrument of understanding. And, on the other hand, theorizing here has emancipated itself from a concern with identities specified merely in terms of their characteristics; but, of course, without impugning the conditional intelligibility of such identities.

This self-consciously conditional theorist (so to say) can accommodate himself to the first of these conditions without serious difficulty; he easily understands that nothing will come of questioning everything at the same time. Indeed, he recognizes this to be the condition of any specific achievement in understanding. He has a heavenly home, but he is in no hurry to reach it. If he is concerned to theorize moral conduct or civil association he must forswear metaphysics. But he is apt to be less easy in his relations to what he has left behind: identities specified in terms of their characteristics. And this is particularly the case where he is concerned with human conduct and with 'goings-on' recognized as exhibitions of intelligence. He certainly occupies a platform of

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conditional understanding superior to that of even the most competent map-maker of the relations of identities specified in terms of their characteristics and to that of even the most adept diagnostician responding to their invitations to act; and he may be said to 'offend' (in the expression of Heidegger: 'erklären heisst beleidigen') the map-makers and those engaged in conduct only by committing the pardonable solecism of having a different concern: namely, to investigate the conditions of their enterprises, not to engage in them. Thus, he may be supposed to be beyond any severe temptation to confuse the postulates of an identity with its features or to pass off either for the other. But if there is a risk, it is that he will look back rather than forward. He has, of course, no reason to consider himself able to provide a *substitute* for the activities of map-makers or of agents in conduct, to have the authority to seize the helm in their concerns, or to be persuaded by others that this is the case. And if he keeps his head he will not be tempted to confuse (for example) theorizing moral conduct with knowing how to subscribe to a moral practice. But he will become genuinely and unpardonably 'offensive' if he so far mistakes the character of this superiority as to think of map-making and diagnosis as a kind of worthless nescience, or if, in virtue of occupying a superior platform of understanding and of his concern with postulates, he so far forgets himself as to assume the office of tutor to those he has left behind who have no such concern. Either way, he would commit the enormity of deserting his own character as a theorist with a modest programme of investigation for that of a 'theoretician'.

This deplorable character has no respectable occupation. In virtue of being a theorist he purports to be concerned with the postulates of conduct, but he mistakes these postulates for principles from which 'correct' performances may be deduced or somehow elicited. He understands it to be his business to umpire conduct, certifying performances to be 'correct' or condemning them as 'incorrect' inferences from the theorems of an alleged understanding of conduct in terms of its conditions. But since such theorems are incapable of specifying performances, the engagement of the 'theoretician' is a spurious engagement in conduct itself, an undertaking to direct the activities of map-makers, diagnosticians and agents by systematic deception. He is a fraudulent tutor; and the certificates he issues are counterfeit,

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acceptable only by those who share his belief in the truth of his theorems and share also his delusions about their character.

This account of the engagement of understanding owes so much to the account in Plato (*Republic*, vi, *ad init.*, and elsewhere), that it may be instructive to notice its divergencies.

The cave-dwellers, who inhabit a 'hollow in the earth' (*Phaedo*, 109), occupy a platform of conditional understanding. They recognize their world in terms of identified and named occurrences understood as compositions of characteristics. It is, thus far, a world of intelligibles and they move within it confidently. They can remember and recollect, they have expectations about the occurrence of these 'goings-on', and they can pay more or less attention to them when they appear. They have their likes and dislikes, greeting these occurrences not only with a limited curiosity but with joy, sorrow, anger, repugnance, affection, delight, surprise, etc. They are capable of inferences which are verdicts or diagnoses. And the more intelligent (or the more attentive) among them are admired by the rest, and sometimes rewarded with small prizes for the reliable information they have acquired and are able to impart about the connections and correlations of at least some of these occurrences, and for their ability to forecast their appearance upon the scene.

This platform of understanding is, however, a 'prison'. Its inhabitants are 'prisoners', not merely because they are wholly ignorant of its conditions but because the level of their understanding excludes even the recognition that it is conditional. In short, in Socrates' phrase, they are 'like ourselves', only more so than Plato will allow. Distracted by his exclusive concern with the engagement of theoretical understanding and with the manifest shortcomings of this platform of understanding, the intelligibility of the cave-dweller's world seems to him at once so complete (leaving no room for mystery and inviting no questions save those concerned with the relationships of identities understood as compositions of characteristics) and so minimal that he is disposed to write it off as nescience. This, I think, is a mistake. It is a conditonal understanding of the world, valuable so far as it goes, and indispensable in the engagements of practical life, but not fully in command of itself because it is unaware of its conditionality.

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The theorist, not without something of a wrench, courageously escapes; and to escape is to free himself from the idiom of the cave-dwellers' understanding. This he does in stages, each of which is adventure in theorizing and each has its outcome in theorems. After standing up and 'turning round', his first achievement is the recognition of the conditionality of the understanding he had hitherto shared with the cave-dwellers. This comes to him, not in a general proposition but in his recognition of its immediate conditions. What is going on at the parapet (and particularly the 'models' and the 'fire') are the postulates of the cave-dwellers' world. Since it is a graphic story, they appear as other identities understood in terms of their characteristics, but we should not allow this to divert our attention from the significance of that momentous act of 'turning round': in it the theorist says farewell to identities as compositions of characteristics and fixes his attention upon the 'ghostly ballet' of bloodless postulates.

Unlike the 'prisoners', for whom the word 'shadow' is merely a means of distinguishing one sort of observed occurrence from another, the theorist can now recognize the cave-dwellers' world as a world composed entirely of 'shadows'. And if he had been so disposed he might immediately have run back to his fellows with this interesting information. Had he done so, his message would have been surprising, but less likely to provoke dismay than incredulity or the vulgar retort, 'so what?'. Plato, however, would have expected even this interim report (if it could be supposed to be understood and believed) to have a shattering effect upon the cave-dwellers, depriving them altogether of their simple understanding and enjoyment of the scene constantly unrolled before them, turning cave life 'upside-down' (*Gorgias*, 481). But here, I think, he would have been mistaken. To discover that a platform of understanding is conditional and to become acquainted with its proximate conditions is a notable step in the engagement of understanding, but it is not like exposing a fraud. The cave-dwellers' language of characteristics would not have suddenly become nonsensical: shadows are not forgeries.

But the escaped prisoner is a confirmed theorist and he knows he must be *en voyage*. He recognizes these conditions (the performance at the parapet), not as instruments of understanding but as themselves invitations to inquiry. What are the postulates of the 'fire' which casts the 'shadows' now understood to compose the

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cave-dwellers' world? And in stages, not all of which Plato divulges to us in detail, the theorist achieves, in the end, what Plato thinks of as a definitive understanding, in which the world acquires unconditional intelligibility in being understood in terms of the ultimate postulate, 'the Good'. I shall pass over the difficulties entailed in the notion of an unconditional understanding, which are, perhaps recognized in the visionary quality attributed to this final achievement; what is important is the critical inquiry into the conditions of conditions in which it is reached.

According to Plato (in some accounts, at least), the theorist who now reluctantly returns to the cave from this greatest of all intellectual adventures carries with him an unconditional understanding of the world in terms of its ultimate postulates (or, as he says, its 'causes'). This understanding, it goes without saying, is vastly superior to that of the cave-dwellers. But it is represented as something more than merely superior. It is alleged to be a complete *substitute* for that and for every other conditional understanding. Thus, the theorist returns, not with something useful in his pocket (as a man might carry a copy of Horace to console him as he goes to prison, to exile, or to war), but with a gift of inestimable value to mankind: a definitive understanding and language to supersede and *to take the place of* all other understandings and languages.

But on his return he earns the amiable ridicule and provokes what is alleged to be the ignorant and undeserved animosity of the cave-dwellers. He is a figure of fun because, having learned to think and to speak in terms of postulates, he has lost command over the cave-language of characteristics. That he cannot quickly readjust himself to cave life is laughable in so learned a man; his scarcely concealed aversion from doing so is intelligible but, perhaps, not so funny: it portends the inevitable defeat of his mission. But he arouses what is represented as the mindless and unmerited resentment of the cave-dwellers by his indictment of their ignorance and by the galling offer of release from a bondage they are too stupid to be aware of suffering. They are inclined to dispose of him forthwith as an enemy of the people. Indeed, in some of Plato's accounts of the situation, the death of the returned philosopher is raised to the level of necessity.

In the account I have given, the cave-dwellers are sagacious and knowledgeable persons, and among them are expert map-makers

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and adept diagnosticians. They are not at all inadequately equipped for understanding and dealing with the world in which they live, and their only serious intellectual defect is to be unaware of what they do not understand. They accept the intellectual superiority of the returned theorist very much as a travelled man, whom they knew as a boy, is welcomed (a little incredulously) by stay-at-homes who can scarcely imagine the world except in their own limited terms. They are perplexed, and they may suspect him of being a *revenant*: 'come to us in our dreams', they murmur, 'but not as a ghost to haunt us'. But he is recognized as a man with an unusual store of surprising information and also a fresh, questioning, unconventional intelligence. When he tells them that what they have always thought of as 'a horse' is not what they suppose it to be (a composition of characteristics, not unlike a zebra), but is, on the contrary, a modification of the attributes of God, he is clearly recognizable as a clever fellow from whom there is much to be learned. They will applaud his performance even where they cannot quite follow it.

But if he were to tell them that, in virtue of his more profound understanding of the nature of horses, he is a more expert horseman, horse-chandler, or stable boy than they (in their ignorance) could ever hope to be, and when it becomes clear that his new learning has lost him the ability to tell one end of a horse from the other, no doubt the conversation would take a less animated turn. And if, in taking part in legal proceedings (as Plato said he might), he were to brush on one side the cave-understood conditionality of 'the truth, the whole truth, and nothing but the truth' and were to insist that matters should be delayed while the question What is truth? was explored, or if he were to lecture judge and jury about the postulates of justice, those concerned might be expected to become a trifle restless. Before long the more perceptive of the cave-dwellers would begin to suspect that, after all, he was not an interesting theorist but a fuddled and pretentious 'theoretician' who should be sent on his travels again, or accommodated in a quiet home. And the less patient would be disposed to run him out of town as an impudent mountebank. In short, what the cave-dwellers resent is not the theorist, the philosopher (him they are inclined to admire even if they have not much use for his concern with postulates), but the 'theoretician', the *philosophe*, the 'intellectual'; and they resent him, not because they are corrupt or

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ignorant but because they know just enough to recognize an impostor when they meet one.

II

1. My concern now is with the identity 'human conduct', with the engagement of theorizing it, and with its employment as an instrument for understanding contingent substantive actions and utterances.

The expression 'human conduct', here, denotes an ideal character. A man may perform actions, he may undertake a course of action, and he may make utterances which are themselves actions or are auxiliaries to actions. He may recognize Jones and cross the street in order to avoid him, he may go without breakfast, he may remain calm under provocation, point his finger at *Z* while denouncing his conduct as vile, respond to an invitation to 'explain' or to 'justify' what he has done, make a promise, or he may go for a walk in the rain. But 'conduct' itself cannot be performed. And it is neither an ingredient of human actions which might be extracted (like alcohol from wines), nor is it a characteristic or set of characteristics in terms of which a family of 'goings-on' may be reliably recognized. It is the ideal character which the postulates of human performances compose and in terms of which they may be understood.

'Human conduct', as it first comes before us in terms of its features, is, of course, rough and ragged at the edges. And it would be tedious to rehearse the steps, the tentative recognitions of likes and unlikes, the distinctions and the refinements in which an identity, a composition of characteristics, may be conjectured to have emerged, to have been endowed with a character, and to have become available to be employed as a means of taking hold of and identifying what may be going on. Indeed, its implicit recognition is so nearly related to reflective consciousness that it may scarcely be counted a separate achievement. Moreover, our distant ancestors seem to have been so greatly disposed to understand all the 'goings-on' in the world on the analogy of human conduct that the intellectual achievement lay not in making explicit the identity 'conduct' but rather in the discrimination which returned the idea whence it came, namely, to 'goings-on' exclusively characteristic of human beings. But be that how it may, I shall begin at the point

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where a relatively unambiguous identity has been elicited, has been delineated in terms of characteristics, and is understood: a human being responding to his contingent situation by doing or saying *this* rather than *that* in relation to an imagined and wished-for outcome and in relation, also, to some understood conditions.

The more important marks of this identity are: beliefs distinguished from organic conditions, a world of *pragmata* (things and occasions related to wants), situations recognized to predicate action, imagined future conditions of things, agency, deliberations, choices, decisions, intelligible utterances, performances, satisfactions, procedures, practices, motives. And here they are no more than characteristics (each itself an identity recognized in terms of its features) held together so as to delineate a recognizable character.

But even without further specification they divulge the category of the identity denoted in the expression 'human conduct' and the idioms of inquiry appropriate to theorizing it. They disclose doing as itself an exhibition of intelligence. An agent is one who is recognized to have an understanding of himself in terms of his wants and his powers and an understanding of the components of the world he inhabits; and action is recognized as an illustrative exhibition of this understanding. The attribution of agency and the recognition of action is already the attribution and the recognition of reflective consciousness. Our commonplace refusal to attribute agency to the sun setting over Galway Bay, and our refusal to recognize 'being an albino' as an action or as the outcome of an action are refusals (correct or incorrect) to recognize this occurrence or that manner of being as themselves exhibitions of intelligence. And our recognition of a cat sitting mute before a door waiting for it to be opened as a performance is an attribution (correct or incorrect) of intelligence. Or, to put it another way, to recognize a 'going-on' as 'conduct' is to acknowledge it to be something that has had to be learned. In refusing to recognize the movement of water when it meets a declivity or the fluttering of a flag in the wind as 'doing' we are denying that it is an exhibition of what the stream or the flag has learned to do; and in recognizing *A* making an offer to purchase a house, or *B* inviting *C* to dance, or *D* giving a pupil a first lesson in the violin, or *E* trying to comfort an unfortunate, as agents we are acknowledging them to be doing

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what they could not do unless they had learned (well or ill) how to do it.

Nevertheless, whatever the familiarity of this identity, however well understood it may be and however adept we may be in using it to distinguish and make more intelligible passages in our experience, for the theorist it is a predicament; it is still waiting to be understood and it invites inquiry. His engagement is neither to act, nor to use this composition of characteristics to enhance the intelligibility of what goes on, but to understand it in terms of its postulates.

No doubt there will be many who may properly find this task uninteresting; they prefer to inhabit and to respond to the invitations of the world of *pragmata*. And others may lament the compromise it entails: released from the conditions of doing, having recovered the critical initiative in which understanding is not an instrument to be used but an energy to be enjoyed, and their sails set to catch the wind of an unconditional engagement, they will be disposed to resent this submission to another (if less onerous) set of conditions. But to fulfil this undertaking he must somehow avoid the defect of the one and the excess of the other. His business is to make theorems, not to perform actions; but he is concerned with theorems about conduct. And since it is upon this intermediate level of understanding that he must move, all that is important is that he should set out circumspectly and should learn to enjoy its liberties and submit to its servitudes as he goes along. And he will need, also, the forgiveness of his readers for his almost unavoidable divergencies from this difficult path; for saying, at some point or other, either too little or too much.

But before setting out, there is a contention (already mentioned but pushed on one side) which calls for closer consideration, because, if it could be upheld, it would return the theorist to the servitude of doing before ever he set out. If (it is contended) doing is recognized as itself an engagement to understand, surely it must be no less the case that every engagement to understand is to be recognized as a 'doing'. Each entails a performance, a choice to do or to say *this* rather than *that* in relation to an imagined and wished-for outcome, and therefore submission to the conditions of doing. The anchorite withdrawn in contemplation, Descartes cogitating in his stove-warmed room in Breda, and the theorist of

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conduct, no less than the carpenter at his bench, the salesman at the door, and the negotiator at the table, are responding to their situations in actions or in utterances which are the equivalent of actions. If this is the engagement of any of them, surely it is the engagement of all. And, not without paradox, this observation has provoked the conclusion that all engagements to understand (including that of the theorist of conduct) are themselves to be understood in the terms of doing.

It is not denied that the performer and the theorist of conduct occupy different platforms of conditional understanding; or that, while the engagements of both entail an acceptance of the conditions of conduct, in the one acceptance is an unqualified submission and in the other it is the acceptance of an invitation to investigate what is accepted. And further, it is admitted (or it should be admitted) that a theoretical understanding cannot itself be an engagement in the conduct being theorized: to theorize a 'comic' performance (that is, to understand it in terms of its postulates) is not itself to make a joke or to have the understanding of it denoted in the expression 'seeing the joke'. But it is correctly observed that none of these considerations releases the engagement to theorize conduct from its character as itself conduct. Doing is an understanding, and undeniably in all understanding there is doing.

Nevertheless, there is an important distinction to be observed. The doing in conduct is intrinsic to the engagement. To act is to occupy and to explore a platform of conditional understanding; it is diagnosing a situation, recognizing it as an invitation to act, imagining a satisfaction, making a choice, performing an action, and encountering an outcome. Thus, doing is an engagement to understand in which the understanding and the doing are assimilated to one another so that the outcome of the understanding is not a theorem but a contingent illustration of understandings and beliefs, namely, a performance. The doing, here, is the adjective of the understanding. But the doing in theorizing is incidental to the engagement. To theorize conduct is to occupy and to explore a conditional platform of understanding, but this platform is not that of a performer and the outcome of the engagement is not an action but a theorem. The ingredient of doing here is that of choosing to undertake this engagement rather than any other, of being patient and determined, of reconsidering the argument, of

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taking up one's pen and writing down the theorems, etc. But what constitutes the understanding is the theorems themselves, and these are not choices, or reconsiderations, or actions. A theorem is not the adjective of the doing concerned in formulating it; and if, for example, its copyright were sold the recompense received would not be an outcome of the theorem and the transaction would not itself be theorizing. The theorist of conduct is not, as such, a 'doer', and the theoretical understanding of conduct cannot itself be theorized in the terms of doing.

One further consideration in respect of the delineation of the identity 'human conduct' remains to be noticed. It is customary to distinguish between 'acting' and 'fabricating'. In 'acting' the imagined and wished-for outcome of the agent's performance is the response looked for in the performances of other agents or in himself when he comes (as he must) to respond to what he has done; and every such performance is an episode in an interminable adventure. In 'fabricating' the imagined and wished-for outcome is an artefact; a finished product. And the theorist of conduct is called upon to declare which of these identities he is concerned with.

This is not a worthless distinction in so far as it allows inquiry to consider postulates which may be exclusive to fabrication; but it has only a limited significance and cannot be pressed. An artefact is an interpolation which does not necessarily deprive fabrication of the character of a performance. In most fabricating engagements the imagined and wished-for outcome is not the artefact itself but the response it is designed to evoke in the conduct of other agents, or in the fabricator himself. This is clearly the case where artefacts are produced for sale, in building a bridge or a ship, in the construction of works of fortification, and wherever the artefact may be considered in terms of utility. Indeed, fabricating may be said to divest itself of the character of a performance, and the artefact to reveal itself in terms of what is exclusive to fabrication only when it is recognized as a work of art. An artist may seek a response from others or from himself at a later time, but it is often a very indefinite response and the meaning of what he has made is independent of it. Here, what is made may be said to be made with no other intention but that of making it; unlike an action, it is not intrinsically episodic. Consequently, in identifying what I am concerned with as 'conduct *inter homines*' (that is, performances

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understood as transactions between agents), I do not take this to exclude fabrication, but only to exclude what is unique to fabrication, namely a work of art properly so called. Nor does it exclude the activities in which what Bacon called 'the empire of men over things' is exerted; here also the immediate is a utility, an intermediate in a transaction between agents. The idea 'conduct' I am concerned with is, then, that of an agent disclosing and enacting himself in performances whose imagined and wished-for outcomes are performances of other agents or other performances of himself: satisfactions, not only pursued in actions and purchased by actions, but wholly composed of actions.[1]

2. In theorizing an identity its postulates must be distinguished and exposed and each must be held up to careful inspection. As postulates in terms of which the identity is to be understood they elucidate and confirm one another; each reflects and implicates the others. And with this warning, I shall begin what I have to say about the postulates of conduct by considering the 'human being' concerned, who is both the subject and the object in conduct.

Doing, identified as *response* to a contingent situation related to an imagined and wished-for outcome, postulates reflective consciousness; that is, an agent who inhabits a world of intelligible *pragmata*, who is composed entirely of understandings, and who is what he understands (or misunderstands) himself to be. Further, it postulates an agent whose situation is what he understands (or misunderstands) it to be and who understands it to be one which invites an action, who is able to imagine it different from what it is and can recognize it to be alterable by some action or utterance of his own; and when alternatives present themselves to his imagination, he must be able to choose between them and decide upon a performance. In short, conduct postulates what I shall call a 'free agent'. And I use the word 'free' because I am concerned here with the formal detachment from certain conditions which is intrinsic to agency, and not with the quality of being substantively 'self-directed' which an agent may or may not

[1] I have used the expression 'conduct *inter homines*' because the alternative, 'man in society', can mean only human beings associated in respect of some understood specifiable formal relationship (a 'practice') and what I am concerned with here is human beings related to one another in terms of substantive actions and utterances and responses to them.

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achieve and which, when a high degree of it is enjoyed, is properly called 'self-determination' or 'autonomy'. The 'freedom' inherent in agency may be specified as follows.

The starting-place of doing is a state of reflective consciouness, namely, the agent's own understanding of his situation, what it means to him. And, of course, it is no less *his* situation even though it may be a concern with what he understands to be the situation of another or of others. In this understanding, the situation is identified in substantive terms; it is never the recognition of it as, for example, merely pleasurable or painful, rightful or wrongful. And it is in respect of this starting-place in an understood contingent situation that the agent in conduct may be said to be 'free'; all other considerations which point in this direction are subsidiary and derivative.

If this situation were one of 'organic tension', peculiar to himself or characteristic of his biological species, if it were some other condition of himself or of the world which was imposed upon him and which he suffered without having to understand it, or if he were himself the mere battle-ground of arbitrary impulses or the mouth-piece of a god, then he would not be 'free'. But as a reflective consciousness his situation is necessarily an understanding and as an understanding it is necessarily his own. He is 'free' not because his situation is alterable by an act of unconstrained 'will' but because it is an understood situation and because doing is an intelligent engagement. Nor does it matter how he may have come by this understanding, because (since it is composed of beliefs) it cannot be a genetic inheritance, it cannot be the outcome of what has merely happened to him (what is sometimes miscalled his 'history') distinguished from his understanding of it, and it cannot have been imposed upon him by any external agency. He can have come by it only in learning, and in learning he acquires only what he accepts and makes his own in an understanding. In short, the starting-place of doing is the agent himself as a 'historic' self-enacted reflective consciousness.

There may be organic conditions which may make certain understandings less likely than others. A man congenitally deaf is not the most likely promoter of 'noise abatement' because he is not apt to recognize his own situation in terms of 'noise'. But his congenital condition does not exclude him from *understanding* his own situation in terms of 'noise', e.g.: 'I am the deaf husband of a

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wife who suffers greatly from the noise of air-traffic.' Indeed, the most devoted promoter of 'noise abatement' may be one who, by circumstances never himself suffers the evil he wishes to reduce. And if an agent's recognition of his situation is, as it may be, the recognition of an organic condition ('I am an albino'), what constitutes it an understood situation capable of being responded to in conduct cannot be its character as an organic condition, because no such condition is capable of self-understanding or of responding to itself.[1]

This attribution of independence in virtue of an agent's situation being what he understands it to be does not release his understanding from judgement in which it may be pronounced a misunderstanding, nor does it prevent reasons for it being adduced: misunderstandings are themselves understandings and reasons are not 'causes' of understandings. What it asserts is that, in virtue of an agent being a reflective consciousness, his actions and utterances are the outcomes of what he understands his situation to be, and that this understanding cannot be 'reduced' to a component of a genetic, a biochemical, a psychological or any other process, or to a consequence of any causal condition. And if two or more agents have similar understandings of their situations this is because they have independently learned to think alike and not because they share common organic tensions, have similar genetic characters, or have suffered or enjoyed like external circumstances.

An agent's understanding of his situation is a diagnosis: that is, a verdict in which it is recognized to be in some respect unsatisfactory, wanting, amiss, or objectionable and therefore to suggest alteration. But, since it is *his* situation, this unsatisfactoriness is recognized not merely as a defect but as a defect unacceptable to himself; and since he is an agent, he recognizes it as inviting a response of which he is to be the author. This unacceptability is specific; the situation is not understood to be merely inadmissibly imperfect and thus to suggest alteration, but to be unacceptably defective in some particular respect and thus to invite remedy.

[1] The proposition that 'biological and psychological knowledge are themselves biologically and psychologically determined', if it means (as it appears to mean) that theorems in the sciences of biology and psychology are themselves to be understood as the products of biological and psychological processes, is categorially absurd.

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And it is not merely a feeling of discomfort; it is an understood unacceptability inviting a response.

This response is an action or an utterance equivalent to an action. It is, of course, related to the diagnosed unacceptability of the agent's situation, but this unacceptability is not a 'stimulus' or a 'motive force' causing or compelling him to act; and it neither specifies a particular action nor is any particular action deducible from it. The response is a genuine answer or rejoinder which must be chosen by the agent concerned. But he is not 'free' because he is able (or because he believes himself to be able) to 'will' what he shall do or say; he is 'free' because his response to his situation, like his situation itself, is the outcome of an intelligent engagement. Indeed, what is called 'the will' is nothing but intelligence in doing; in denying 'will' to an ebbing tide we are refusing to recognize it as an exhibition of intelligence.

In acting an agent imagines, wishes for, and seeks to achieve a satisfaction; that is, a condition in which the specific unacceptability of his current situation is remedied or abated. This satisfaction is not, therefore, to be thought of as the fulfilment of an evolutionary drive, a genetic impulse, an organic want, or a psychological urge or tendency. Nor is it merely wanted, as a satisfaction impossible of achievement or one unrelated to his own agency might be wanted: the fancy of being able to fly or wanting a certain horse to win the Derby. It is an understood satisfaction, imagined, wished-for, specified, promised, and sought in his chosen action. And in conduct *inter homines* it is both formally and substantially specific: it is other agents responding to his action by themselves choosing and performing actions aimed at particular satisfactions, and it is this being done in the wished-for manner.

An action, then, is tied to the agent's understood situation, not only in being concerned with the agent himself as a continuing identity, but also in being the particular manœuvre in which he has chosen to remedy its unacceptability. And it is tied to the wished-for satisfaction as the doing or utterance whose imagined outcome is that condition. Thus, conduct is not to be understood (as it is often understood) as performing actions designed to achieve imagined and wished for ideal satisfactions. The wished-for satisfaction is what the agent 'intends', in the proper sense of 'means', not before he decides what he shall do, but in deciding it.

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What is chosen is not an end or a means of achieving a wished-for end; what is chosen is an action with this specific meaning.[1]

But an action is not tied to the achievement of what is meant in performing it. If it were frustrated of its intention it would not cease to be an action or become another and a different action. And although in 'doing' an agent is certainly seeking a satisfaction, he is not carrying out an *experimentum luciferum* whose outcome is a theorem, nor is he embarked upon an *experimentum fructiferum* to test the hypothesis that his performance will have the hoped-for or expected outcome: the satisfaction he seeks is his world actually changed in an imagined and wished-for manner or himself in a less undesirable situation. And whether or not he achieves the satisfaction he seeks (that is, the imagined abatement of the unacceptability of his current situation), what he does will certainly have an outcome in which his situation will be substantively, and not merely experimentally, modified. Thus, it may be said that in 'doing' an agent casts off a mooring. He may be seeking a satisfaction, but what he *chooses* is an action; that is, the adventure of aiming at an imagined satisfaction. Hence the saying of Democritus that courage is the beginning of action: courage to put out to sea.

The 'freedom' intrinsic to agency is, then, the independence enjoyed by the agent in respect of being a reflective consciousness composed of acquired feelings, emotions, sentiments, affections, understandings, beliefs, convictions, aspirations, ambitions, etc., recognitions of himself and of the world of *pragmata* he inhabits, which he has turned into wishes, and wishes he has specified in choices of actions and utterances. It does not exclude him from giving reasons for what he has done or others from seeking them, for reasons are not causes and this freedom is not that of a so-called autonomous 'subjective will'. It does not depend upon his actions being 'rational' rather than 'emotional' responses, upon their being wise rather than foolish, calculated to achieve their wished-for outcomes rather than impulsive, or achieving their wished-for outcomes rather than failing to do so. Victory does not demonstrate this freedom nor defeat qualify it. It does not require substantive self-sufficiency in the agent. And it excludes neither dispositions to act in a certain manner, the acknowledgement of

[1] Of course, description in terms of means and ends is not senseless, but its conditionality (means may become ends and ends means) is such as to make it theoretically worthless.

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obligations, subjection to orders or commands, the obedient service of a master, nor subscription to the conditions of practices; that is, to procedures which are themselves exhibitions of intelligence, which can be observed only in virtue of having been learned and being understood, and which never prescribe substantive performances. And it does not isolate action from expectation or conjecture. It entails only the recognition of 'doing' as an intelligent engagement, action linked with learned and understood belief, distinguished from a genetic, a psychological, or a social process or from a consequence of causal conditions.

The self-understanding of the agent who is both the subject and the object postulated in conduct may be small, his powers of self-determination may be modest, he may be easily imposed upon, he may be duped into acting, but he is what he understands himself to be, his contingent situations are what he understands them to be, and the actions and utterances in which he responds to them are self-disclosures and self-enactments. He has a 'history', but no 'nature'; he is what in conduct he becomes. This 'history' is not an evolutionary or teleological process. It is what he enacts for himself in a diurnal engagement, the unceasing articulation of understood responses to endlessly emergent understood situations which continues until he quits the diurnal scene. And although he may imagine an 'ideal' human character and may use this character to direct his self-enactments, there is no ultimate or perfect man hidden in the womb of time or prefigured in the characters who now walk the earth.

3. In an agent's understanding of his situation its contingency is postulated; it is, but it could have been other than it is and it is alterable. And in virtue of his situation being understood to be, in some specific respect, unacceptable to himself it is understood to predicate alteration of which he is the author.

Understanding his situation as that of being in debt and finding this unacceptable, *Z* recognizes himself to be invited to respond in an action or an utterance; he discloses in himself the character of an agent and acquires an employment.[1] His situation is specific; he is not merely 'unhappy' or 'in pain', he is unacceptably in debt. What he owes, how he came to owe it, his creditors and the

[1] *P* is also 'in debt'; but since he does not find this unacceptable, he is not similarly situated. He receives no such invitation to act and in respect of his indebtedness he does not acquire the character of an agent.

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respect or the degree in which it is unacceptable to him are known, are ascertainable, or do not significantly qualify the situation. Nevertheless, neither his understanding of his situation, nor the ideal situations in which its defect is removed (solvency or successful indifference to indebtedness) prescribe any particular action to be performed: an 'interest' never specifies a performance. Severally or together they may suggest (or, under close interrogation, they may be made to suggest) a variety of alternative responses, but beyond this they cannot go. Thus, recognizing himself as an agent, *Z* recognizes himself as having to choose what course of action he shall embark upon as a rejoinder to his situation.[1] But choosing is an engagement of thinking, and consequently this reflection in the service of acting may be said to be a postulate of conduct. It is to be identified as deliberation.

No doubt there are many actions (properly so called) performed off the cuff without any considerable engagement of choosing, and a choice of what to do or to say is often made without any significant deliberative engagement. Indeed, a 'man of action' is, characteristically, an agent so little hesitant about it that we imagine him to be absolved from having to *decide* what to do. But, of course, none of these considerations impugns the status of deliberation and choice as postulates of conduct. A postulate is not an engagement, it is a condition in terms of which an engagement may be

[1] The situation to be responded to by the choice of an action is, of course, that to which the agent is presently attending. Usually, as in the case of *Z*, it is only a fraction of what may be called his notional total situation: *Z* is much else besides being a debtor and there may be other unacceptabilities in his total situation besides that of being a debtor. Thus, situation and agent are always inseparable but not always indistinguishable, and the first choice an agent may have to make (usually without much deliberation) is concerned with which of the many unacceptabilities he shall attend to now. Further, situations call for responses commensurate with their fractional characters. No man (unless he were a lunatic), who understood his situation as 'I shall be late for my appointment', will choose a response out of proportion to its triviality: he may break into a run, look round for a swift conveyance or for a telephone, but he will not seriously consider suicide or resigning his office of Lord Chancellor.

Great deeds and heroic actions, on the other hand, are great and heroic in being responses to situations of such notable magnitude that they are indistinguishable from the agent concerned; that is, situations whose unacceptability is understood to be of overwhelming proportions by the rare persons capable of being moved by such understanding or by more ordinary persons understanding themselves to be in extraordinary situations: Othello (to whom honour was all) shamed; Cleopatra totally bereft; the saint to whom everything topical, transitory, or fractional is wholly insignificant; and the hero equal to a situation which can be responded to only in a total engagement.

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understood. Nevertheless, the character of deliberation may most clearly be displayed when it is considered as a feature of conduct: deliberating.

Deliberating is reflection concerned with doing, with the choice and the performance of actions; it is an agent considering his situation and what he shall do in response to it. And an action is a performance in which an agent aims at and intends an imagined outcome and whose purposed outcome is its meaning. Consequently, what falls to be deliberated are alternative concrete performances, actions or utterances each of which is distinguished by a 'meaning', a purposed outcome, exclusively its own. And deliberating cannot be (what it is often said to be) considering alternative means for achieving an independently premeditated end with a view to discovering the best, the easiest, the most effective, etc., way of achieving it. What *Z* has to consider is not the best, the quickest, or the most economical, etc. means of becoming solvent or of achieving a successful indifference to being in debt, but with what action or utterance he shall respond to what he understands his situation to be.

Nor is the agent in conduct in the position, for example, of a chess-player who has to choose between a fixed number of alternative moves. The alternative actions he has to consider are his own inventions, and deliberating is not merely reflecting in order to choose, it is also imagining alternatives between which to choose. No doubt (unless he is a lunatic) he will limit his deliberation to actions which he has both imagined and also believes himself capable of performing. But if to this circumstantial condition is added the qualification that (in order to address himself to his situation) he must deliberate only those actions which are plausibly responses to it, that is scarcely a limitation. It allows him to consider doing nothing because all the actions he can think of seem to carry with them unacceptabilities greater than that which he now suffers; and at the other extreme it permits him to consider the sovereign release from all unacceptable situations, namely, suicide. And between these the number of remedial actions eligible to be deliberated as responses to any situation is limited only by the virtuosity of his imagination. *Z* may decide to offer to pay a bit on account, but how much? and which of the many ways of raising the instalment shall he choose to explore? and exactly how shall he pay over the sum decided upon? That is, which of the many

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alternative actions within this way of dealing with the situation shall he perform? He may consider marrying an heiress, pawning his violin, missing dinner for a month, or going into voluntary liquidation. He may try to reassure his creditors in any of the many ways in which he may think them likely to be reassured. Or he may consider escaping from them in any of the many ways in which a man may attempt such an escape—feigning death, emigrating to Nicaragua, joining the Foreign Legion, or disguising himself and taking a job under an assumed name with the Yeovil Town Council. In short, and although there are certainly limiting conditions he *ought* to take into account (which I shall shortly investigate), the eligible alternatives in conduct are virtually unlimited; each is a different action distinguished from all others in respect of its exclusive meaning, and none may be deduced from the situation to be responded to.

The meaning of an action is a wished-for response from other agents who, because they are similarly engaged, cannot be depended upon to respond in the wished-for manner. Consequently acting is making a bargain with an imperfectly imagined future. Choosing an action is an agent settling for a performance with which to put out to sea. And deliberating a choice is reflecting upon the only considerations capable of being deliberated; namely, the likelihood of uncertainties.[1] The questions to be explored are the circumstantial adequacy of an action as a response to the agent's situation, the likelihood of its evoking the looked-for response from those who have to respond without this outcome being so qualified by other unwanted consequences as to make it a bad bargain. And these questions cannot be explored independently of one another.

The conditions of deliberation are, then, an agent not heedless of the future, not knowing for certain what that future will be as a consequence of his action, but counting upon there being a relation between his action and the response it is likely to receive such that whatever he chooses to do is not equally likely to be frustrated of its wished-for outcome. And these are the postulates of conduct.

Nevertheless, deliberating is not to be understood as a regrettable frustration of a demonstrative manner of thinking. It is the

[1] Probability, in the strict sense of distributional uncertainty of a factor in a finite series of commensurables, plays no part in the deliberation of actions. Likelihood may be the guide to life, but not probability.

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only kind of argument in which an agent can recommend an action to himself, and its reasons are the only kind of reasons which may legitimately be adduced for having made *this* rather than *that* choice. The materials at the disposal of an agent are beliefs about his own capacity to act, opinions about the world of *pragmata* he inhabits, expectations about the response a projected action is likely to meet with, about the incidental satisfactions it may bring with it, and about the likely cost in terms of satisfactions foregone or imperfectly enjoyed or dissatisfactions incidentally to be suffered.[1] Some of these beliefs may be prudential maxims, 'opinions about things that could happen otherwise', which have to be deliberately brought to bear upon the agent's situation; or they may be general precepts of indeterminate relevance, or mythical beliefs about the world he inhabits, or home-made conclusions about the persons and circumstances concerned. They may be more or they may be less reliable, but they are not flickering shadows of necessary truths or premises from which conclusions can be deduced. They are aids to deliberation, guesses of varying generality, made with different degrees of confidence and drawing upon evidence of varying quality, which, in deliberation, are not subjected to the test of a criterion superior to themselves but are made to criticize and illuminate one another.

Doing as an engagement of reflective consciousness, then, postulates deliberation; that is, reflection related to choice. But deliberating as a specific activity (the extent of which varies in conduct) may be recognized as a counterpoise to the inherent uncertainty of doing. Doing is an adventure of uncertain outcome in three respects. It is action in search of a wished-for response from other agents which it may not receive. It is action which, even if it receives its wished-for response, may fail to provide the satisfaction anticipated. And it is action the outcome of which (whatever it is) is always a new situation calling for new responses. There are

[1] The science of economics is concerned with human servitude to the scarce resources of the world (which include time) and with more or less desirable conditions of things in respect of the ease (cost) of their attainment. Consequently, activity, the expenditure of energy, 'work', time spent, etc. are reckoned as a cost; it is what Adam Smith called 'laying down a portion of a man's ease, liberty and happiness'. And economists have devoted themselves to an ever more exact and refined understanding and calculation of this cost. But in conduct more generally considered this need not be the case. The expenditure of energy entailed in a performance may itself be a satisfaction and not a cost to be set off against the yield of the performance.

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no 'final solutions' in conduct, and deliberating (reflecting in the service of choice) is the concern to diminish these hazards.

The next postulate of conduct to be considered also has its counterpart in a contingent feature of conduct designed to diminish the hazards of action: persuasion and persuasive speech.

Conduct *inter homines*, understood as an agent disclosing himself in an action and thus seeking a wished-for response from another or from others, identifies action as emotive utterance; that is, utterance which divulges (or at least points to) the response wished for and also moves (or at least invites) the respondent to make it. And conduct thus recognized is being understood as a transaction between agents in terms of the postulate persuasion.

On the other hand, to speak persuasively is itself a recognizable kind of action: it is a 'doing' (in this case a verbal utterance) designed to evoke a response which is itself an action or another such verbal utterance (e.g. a promise) the equivalent of an action. To undertake to persuade a man to allow himself to be considered for an appointment is an engagement which lacks nothing that properly belongs to an action. It is an agent responding to his own understood situation by choosing to say *this* rather than *that* in relation to an imagined and wished-for outcome.

More commonly, however, persuasive speech appears as instrumental or auxiliary to action. It may be addressed to an agent and designed to instigate him to perform a specified action; or to a respondent or respondents and designed to prompt a wished-for response to an action already performed or about to be performed; or it may be addressed to an audience of agents whose concurrence is needed for the performance of an action and designed to evoke their agreement to act in concert. But these and other differences of circumstance are overridden in the general character of persuasive utterance. It is always a transaction between agents, and it is always a recommendation to choose and to perform an action in terms of the alleged merits of its likely outcome.[1] And, as deliberation may be said to be the characteristic idiom of reflection in conduct, persuasion may be said to be the characteristic idiom of speech.

In respect of being a transaction between agents, persuasive

[1] I must postpone the consideration of persuasive speech where an action or a response is recommended in terms of its being a subscription to a rule.

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utterance may be identified as speaking words or making signs which have meanings for a reflective consciousness who can receive what is said or indicated only in terms of believing, doubting, or disbelieving it and who consequently has the alternative of not being persuaded or of being persuaded to some other conclusion. It is addressed to choosers and its design is to evoke a choice. And in this respect it is easily distinguished from attempts to secure acquiescence by hypnotic suggestion, electrical shocks, chemical injections, physical deprivations, etc., all of which deny agency to the subject by denying understanding. It may be allowed, however, to include exhortation, encouragement, pleading, coaxing, reproof, expostulation, polemic, diatribe, or even utterances designed to alarm for these are all appeals to intelligence.

But as a transaction between agents designed to evoke the choice of an action by recommending it in terms of the alleged merits of its likely outcome, persuasive speech is properly identified in terms of its focus of attention. And utterances which, although they recognize the agency of him to whom they are addressed, nevertheless divert his attention from what is being recommended and direct it elsewhere, are not, properly speaking, persuasive. Thus, blackmail, where it takes some such form as 'You are an elector in an appointment for which I am a candidate, and in this respect there are no doubt considerations of fitness of which you should take account, but I suggest that you vote for me because if you do not I shall expose your shameful past', is not persuasive because the merits of his responding thus to his situation as an elector are not even mentioned. Similarly, to promise a reward, or to threaten a penalty, if a certain choice is or is not made, are not persuasive, although, of course, they may be efficacious. And again, in what is called a 'demonstration' in favour of an action, the merits of the action as a response to the situation are at least obscured by the threat of earning the disapproval of the demonstrators if some other choice is made. It could, however be recognized as qualified persuasive utterance if the approval of the demonstrators were, as such, part of the merits of a response to the situation. This, of course, is rarely the case.

But the distinctive character and resources of persuasive utterance appear, not in isolated utterances, but only in argumentative discourse, in negotiation, or in debate with or without an audience other than the debaters. For here utterance is unequivocally

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directed to the situation to be responded to and to the merits of the recommended response in terms of its likely outcome.

Persuasive argument is discourse designed to recommend and to prompt a choice about what shall be done in response to a specified situation, to defend what has been done as having been well done (and thus to prompt approval or acquiescence), or to condemn what has been done as having been ill done and therefore to call for a remedy, and to do this in relation to the likely or to the actual outcome of the actions proposed or executed. It will not concern itself with very near or with very remote consequences, nor will it pretend that all the likely consequences are desirable, for these concerns and pretentions would at once make it implausible to any but an extraordinarily naïve audience. And since in any situation there will be more than one possible response, a persuasive argument will be concerned with the superiority (in terms of likely outcome) of the response advocated over any other suggested response. It is, therefore, a pragmatic argument concerned with the relative merits of the recognized alternative choices and with the preponderance of desirable consequences. It does not pretend to demonstrate its conclusions and consequently it cannot be refuted. But it may be resisted or rebutted by arguments of the same sort which call in question its guesses, its calculations, its prognostications, and its attributions of desirability.

All this approximates persuasive argument to deliberation. But they are not the exact counterparts of one another. The difference lies in the audience, and it is a difference which imposes itself upon the utterance. Persuasive argument is designed to convince others of what the speaker has already convinced himself in respect of its merits, or at least of what he has convinced himself that he wishes to convince others. The 'others' are like the speaker in being acknowledged to be intelligent agents, and they are recognized to be in a situation which calls upon them to act or to participate in an action. But in most other respects the speaker and his audience may differ, and in some they will certainly be different. The speaker, we may suppose, has deliberated the situation to be responded to and has convinced himself of the merits of the action he wishes to evoke from his audience. But since what he is seeking is the performance of this action by another, or the agreement of many to act thus in concert, and not the acceptance by others of the reasons which have convinced him of the merits of the action

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he is recommending, he must offer them what they will recognize as cogent reasons for doing what he recommends them to do. And a speaker who is not ready to forego agreement with the reasoning which has convinced him of the merits of this action proposed, one who is unaware of the difference between the logic of deliberating and the logic of persuading, will never persuade, or will do so only by chance.

In short, persuasive argument even as an auxiliary to action is itself action; it is the diagnosis of a situation (the task of persuading another to perform a chosen action), deliberation about what will persuade (namely, about the beliefs and opinions and perhaps the interests of an audience in relation to an action), the choice of an utterance related to an imagined and wished-for outcome (these others persuaded) and the resolve to make the utterance. It was in virtue of these considerations that Plato identified persuasive discourse as inherently corrupting utterance, especially where the audience is large and miscellaneous, and conduct (of which persuasion is a postulate) as an inherently corrupting engagement.[1]

Where agency is utterance, then, it is most commonly persuasive speech. But conduct licenses another kind of speech which also may have the status of an action; namely, 'explanatory' utterance. If an agent were to accompany his action with a statement, not prompting the wished-for response but designed to reveal more clearly than the action itself what he had done, the doing and the speaking might fairly be recognized to constitute a single action; the agent merely confesses his doubt about being able to disclose himself in the manner in which he wishes to disclose himself without adding utterance to act. But if the immediate response to an action is an imputation of unintelligibility and an invitation to the performer to 'explain' what he has done, what is being called for is a supplementary action in the form of an explanatory utterance. This invitation may be a subterfuge on the part of the respondent to gain time before having to respond or to make the agent commit himself more decisively, but where it is ingenuous it will be issued because the respondent finds himself unable to respond since he is at a loss to understand what he is being asked to respond to. The

[1] There would seem to be three kinds of argumentative discourse: demonstrative; argument where the conclusion cannot be demonstrated but where it is inseparable from the reasons adduced and must be accepted or rejected in these terms; and persuasive argument.

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invitation may be declined. The performer may prefer to leave his action 'unexplained' in the belief that it is more likely to receive its wished-for response if it remains obscure; or he may have nothing to say which he has not already said in performing the action. But if it is accepted the response to it will be an utterance designed to rebut the imputation of unintelligibility or to provide the elucidation asked for.

A performance may be said to be unintelligible or difficult to understand (in the sense of being difficult to respond to with confidence) if the respondent is doubtfully specified ('Do you suck your thumb at me, Sir?'); if the situation it sprang from or its imagined and wished-for outcome is obscure ('What did you *think* you were doing?'); if the wished-for outcome is not obscure but where there is a genuine puzzle about how, in the circumstances, it could be hoped for ('Are you *really* suggesting that I should do this?'), or how in any circumstances it could be thought to be either possible or desirable ('Are you crazy?'); or on account of any combination of these considerations. And the 'explanation' will be an utterance which resolves these doubts or puzzles. It will soon be over. What is being sought is not a release from the considerabilities of conduct into the realm of theoretical understanding with its inevitable threat to the survival of the *explicandum*, nor an extended elucidation of a performance in which it becomes interestingly but unnecessarily transparent (like Conrad's delvings into a performance of Lord Jim's), but merely a settlement of the doubts which made difficult a response to the action concerned.

In short, persuasive discourse is conduct in which actions are recommended or a wished-for response to an action prompted by displaying its alleged merits to those who have to act or to respond; and 'explanatory' discourse is conduct in which an agent responds to an invitation to make his action more intelligible by displaying the deliberation in terms of which he made his choice of what to do.

4. Thus far, I have considered conduct as the engagement of agents responding to their own understood contingent situations by choosing to do or to say *this* rather than *that* in relation to imagined and wished-for outcomes recognized as satisfactions; that is, conduct as the prudential self-disclosure of agents. This characterization of it, however, in terms of the postulates reflective consciousness, situations recognized to predicate actions, agency,

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imagined future conditions of things, prudential deliberation, choice, decision, performance, etc., is clearly incomplete. There are other conditions to be considered, and taking them into the account will extend our understanding not only of conduct but also of the postulates of conduct already investigated. But before going further I propose briefly to restate two conclusions in somewhat different terms.

First, I have insisted that an action is a response to a situation which an agent recognizes to be his own; situation and response are inseparable from an assignable agent. But this does not mean (what it is often taken to mean) that an agent's diagnosis of his situation and his choice of a response are 'merely subjective'. Indeed, 'merely subjective' is an empty expression.

My situation (e.g. 'I am cold') is my diagnosis of my circumstances; it is not itself a 'feeling', but an understanding. And my chosen response (e.g. shutting the window, or poking the fire, or deciding to do nothing about it), whatever it is and however foolish or ineffective it may be, is also an exhibition of intelligence. That is to say, the situation is an understanding and not a 'feeling', an organic tension or the like, and the response is an understanding and not the resolution of an organic tension. These understandings are certainly 'mine', and in respect of being assignable states of consciousness they may be said to be 'subjective'. And in conduct, where the response to an understood situation is a performance and not a theorem, the recognition of this subjectivity is, or may be, important: *whose* understanding it is, is not insignificant. But these understandings cannot be 'merely subjective'. They have meanings, and their meaning is not 'these are *my* thoughts' but 'these are my *thoughts*'. In virtue of their meanings they are 'objective' conclusions; I may question them myself and they may be questioned by others. And even if, as is possible, investigation were to convict them of illusion, they would not cease to be 'objective' conclusions and relapse into 'merely subjective' states of consciousness. A misunderstanding is not, on that account, a 'merely mine'; it remains what it always was, a conclusion eligible to be considered. *Z*, diagnosing his situation as that of being unacceptably in debt, may be grossly mistaken (he owes nobody anything), his decision to seek a remedy by selling his violin may be futile (he has forgotten that he gave it away to his niece five years ago), and even his belief that his situation is 'unacceptable'

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may be mistaken (he may easily, on second thoughts, reach the conclusion that it is acceptable enough), and we may perhaps be forgiven for thinking that he is 'dreaming'. But we should be mistaken if we identified this 'dreaming' with 'mere subjectivity'. What characterizes these conclusions is not that they are 'subjective' (that they are *his*) but that they are misunderstandings and therefore not merely 'his'. They are, in fact, neither more or less 'subjective' than they would be if they were not errors. In short, the recognition of the 'subjectivity' of an understanding in conduct may be significant, but it has nothing whatever to do with the quality or the acceptability of the understanding. 'Objectivity' is not an attribute of correct understanding, it is an attribute of understanding distinguished from mere 'feeling'. And this is an important consideration in respect of so-called 'value-judgements' or the 'creation of norms'. These are often said to be 'merely subjective' acts of 'will', as if to 'will' were to have a 'feeling' or suffer an organic tension. They are, of course, nothing of the kind. Even likings and dislikings are not 'merely subjective'; they are exhibitions of intelligence capable of being investigated.

But further, an action identified as a chosen response of an agent to a situation which he recognizes as his own does not postulate a self-absorbed agent incapable of understanding a situation other than in egocentric terms and therefore unable to identify his own as a concern for that of another. This, no doubt, would be the case if his situation were an organic tension, a psychological state, or an environmental pressure or the like which imposed itself upon him without his having to make it his own in an understanding of it. But in conduct it is never this: an agent's situation is always what he understands or misunderstands it to be.

What predicates action is an agent's understanding of his own situation as, in some respect, unacceptable to himself; but there is nothing to hinder his understanding it to be unacceptable to himself in terms of the unsatisfied wants of another, except a contingent inclination not to do so. He may diagnose *his* situation as 'you are shivering' and he may himself respond accordingly. But the self-reference (which is inherent) is not to be identified with self-preference. It may be true that human beings are more strongly disposed to recognize their situations in terms of their own interests than in those of others, but there is nothing to compel them to do so. And what makes possible the one disposition is that

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which makes possible the other, namely reflective consciousness. Diagnosis in conduct may be in terms of the wants of another because it is always understanding and not syndrome.

And, of course, what is true of an agent's diagnosis of his situation is true also of his response to it. His act is ineluctably his own and its outcome will unavoidably be himself in a new situation, but it does not follow that what he intends, the meaning of his action, must be a self-gratification. For to act is to choose, and where there is choice there may be decision to perform an action whose meaning is the imagined and wished-for satisfaction of wants which are not the agent's own but those of another. And it is in virtue of his character as a reflective consciousness, and not because his 'will' is 'free' or because of his 'sympathy' for others, that an agent is not bound to care only for his own interests. Agents are related to one another in terms of understandings, not in terms of the similarity of their genetic characters or of their neuro-physiological organizations or of suppositious gregarious 'instincts'; they may care for one another because they can think of one another. The myth of the necessarily egocentric agent is a denial of agency.

Secondly, I have insisted that an action is a chosen response to an understood contingent situation and is related to an imagined and wished-for outcome; that is, the spring of conduct is a situation in respect of its being recognized to contain a specific unacceptability. From this (as I have already remarked) it follows that it cannot be understood as a means to the achievement of an end not implicit in itself. But it follows, also, that there can be no independent scale which converts these specific misliked situations, or these specific sought-for satisfactions, into commensurable fractions of a single general condition (e.g. amounts of 'pain' or 'pleasure') and in terms of which all situations may be measured, or at least compared, in respect of their unacceptability and all actions in respect of their sought-for or actual yield of satisfaction. Or, in other words, the spring of action cannot be understood as a situation unacceptable in virtue of lacking an acceptable degree of such measurable and homogeneous satisfaction, and what is wished-for and sought cannot be understood as an outcome imagined in terms of its having an acceptable degree of such measurable satisfaction. I cannot *want* 'happiness'; what I want is to idle in Avignon or to hear Caruso sing.

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But, if agents in respect of what they choose to do and actions in respect of their meanings have no such common end, it does not follow that agents and their actions are mere particulars. It means only that the words and expressions often, but improperly, used to denote a suppositious common substantive 'end' pursued in all conduct, or sometimes to denote a suppositious universal reason for the performance of all actions (words and expressions such as 'survival' 'pleasure', 'happiness', 'the desirable', 'the good', etc.)[1] must be taken to refer to something else; namely, to the formal character of actions. Thus, properly speaking, they refer not to agents in respect of what they choose to do but to agents in respect of their recognition of their actions as choices of their own, and to the ideal condition, impossible to be made the substantive outcome sought in conduct, in which the performances of agents continuously achieve their own wished-for outcomes (whatever these may be), and in which these specific outcomes are found not to be unduly disappointing when they are achieved. Conduct is agents disclosing themselves in their own chosen actions, each exercising his own *potestas vivendi ut velis* which belongs to him not because he has 'free will' but because he is an intelligent agent, and thus winning their way through to their own existences, whatever these may be; and 'happiness' is not a substantive condition of things aimed at but merely not to be thwarted in this engagement.

5. To understand conduct *inter homines* in terms of the postulates agency, choice, performance and response is to recognize it as an engagement in which agents negotiate bargains with the future. This future is composed of the choices and actions of other agents, and consequently these bargains are recognized to be transactions between agents. Each of these transactions has a beginning, each runs its course, and each reaches an interim outcome of some sort which is itself immediately discerned as a predicament inviting response. But such *ad hoc* terminable encounters postulate more durable relationships between agents which are not themselves transactions but are the conditional contexts of all such transactions. It is time now to consider this postulate of conduct.

Conduct is encounters of reciprocity in which agents converse with one another, and the postulate of these encounters is a

[1] These words here, of course, have no 'moral' meaning. They stand for a suppositious universal 'end' sought in all conduct whatsoever.

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relationship in which *this* converse may be understood to take place.[1] Since it is, thus, a relationship between agents, it cannot be a genetic relationship (in terms of blood and genes), nor that of shared biological or psychological urges or tendencies (e.g. gregariousness), nor can it be in terms of physical propinquity (living hard by one another) or of the contingent resemblances of human character, nor that of an 'age-group' (e.g. the animal communion of adolescents), nor that of the components of a so-called 'social system' or of a 'class', nor that which characterizes the successive stages of an evolutionary or a teleological process: these and their like declare themselves *not* to be encounters of reflective consciousness. Nor do agents merely 'communicate' or 'connect' with one another, or 'trigger' one another's reactions; their relationships are not syndromic. On the contrary, they speak to one another in words or gestures and are understood by one another; their responses to one another are in terms of their understandings. Thus, the relationship postulated in conduct *inter homines* is an understood relationship, capable of being engaged in only in virtue of having been learned. And further, it must be a relationship which prescribes conditions for, but does not determine, the substantive choices and performances of agents. In short, what joins agents in conduct is to be recognized as a 'practice'; that is, a procedure proper or useful to be observed and therefore capable of being neglected or violated and capable, also, of being observed only in the chosen subscriptions of agents.

A practice may be identified as a set of considerations, manners, uses, observances, customs, standards, canon's maxims, principles, rules, and offices specifying useful procedures or denoting obligations or duties which relate to human actions and utterances. It is a prudential or a moral adverbial qualification of choices and performances, more or less complicated, in which conduct is understood in terms of a procedure. Words such as

[1] There are two circumstances (to be noticed now and considered later), in which this relationship of reciprocity is, or appears to be, qualified. The first is when an agent secures (or attempts to secure) the wished-for outcome of his action by force. This reduces conduct to the condition of 'fabrication' in respect of an artefact: the agent acknowledges his action to be an action and therefore to need to be requited if a satisfaction is to be achieved, but exacts this return in something other than a response of an agent. The second is when agents are joined, not in the mutuality of seeking different but interdependent satisfactions, but in the pursuit of a common satisfaction.

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punctually, considerately, civilly, scientifically, legally, candidly, judicially, poetically, morally, etc., do not specify performances; they postulate performances and specify procedural conditions to be taken into account when choosing and acting.

Thus, practices may differ in their dimensions, their complexity, and their density; they may range from mere protocol to what may be called a 'way of life': the stoic *apatheia* ('do whatever you do apathetically') is a recognizable practice and so also was the 'chivalry' of the central Middle Ages. They may acquire the firmness of an 'institution', or they may remain relatively plastic. They may overlap one another, they may compose hierarchies, they may join to compose a more intricate practice; judging and advocacy are joined in the practice of a court of law. And most performances are eligible to be 'governed' by a variety of practices: all verbal utterances, for example, are subscriptions to the language in which they are spoken and they participate in one or other (but in not more than one) of the practices which constitute distinguishable *mores* of utterance: *poetice*, *geometrice*, *historice*, *oratorice*, *philosophice*, etc.

Practices are themselves the outcomes of performances. They may be expressly designed; that is, devised, chosen, and instituted in a substantive engagement of rule-making. And there may be rules (that is, a procedure or practice) for making rules. They may be expressly modified, reformed, varied, and even redesigned in another such engagement. They may be neglected, they may fall into desuetude, be suppressed, or abolished. But no practice can be so definitively contrived or so securely insulated from circumstance as to become immune to modifications incidentally imposed upon it by the performances it qualifies. More commonly, however, a practice is not the outcome of a performance. It emerges as a continuously invented and always unfinished by-product of performances related to the achievement of imagined and wished-for satisfactions other than that of having a procedure, and it becomes recognizable when it has acquired a certain degree of definition and authority or acknowledged utility. But whether it is designed in a performance or whether it emerges out of performances, a practice is a relationship between agents articulated in terms of specific conditional prescriptions.

A man may give himself a rule of conduct and thus impose a practice upon his own performances: he may resolve to keep all

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his engagements punctually, that is, to 'make a practice' of being punctual. But conduct *inter homines* is the association of agents (each engaged in seeking his own chosen satisfactions) in terms of mutual participations in multifarious practices of different dimensions and of different degrees of generality, exactness, 'institution', variability, complexity, and independence. Each is agents related to one another in actions and responses to actions qualified by the adverbial conditions of a procedure. The intercourse of friends, the fellowship of convives, the association of partners or colleagues, the relationship of husband and wife, teacher and pupil, doctor and patient, lawyer and client, of a duenna and her charge, of ruler and subject, of master and servant, landlord and tenant, priest and congregation, orator and audience, and that of speakers of a common language—each of these is participation in a distinguishable practice, each is a relationship signalled by the names of the *personae* concerned (teacher, ruler, friend), each is capable of being spelled out (at least in part) in terms of characteristic uses, conventions, rules, or other adverbial considerations, each is an invention of human beings, all are subject to historic vicissitudes and local variations, and none is capable of being participated in except by learning to do so. A 'neighbourly' relationship is a practice participated in, not in respect of persons living next door to one another, but in respect of their understanding themselves to be 'neighbours'.

An action, then, is an identity in which substantive performance and procedural consideration may be distinguished but are inseparably joined, and in which the character of agent and that of practitioner are merged in a single self-recognition. The so-called 'practical' is not a certain kind of performance; it is conduct in respect of its acknowledgement of a practice.[1] This acknowledgement does not reduce conduct to a process or impose upon it the

[1] I hope to avoid the notorious ambiguity of the word 'practical' by using it only to stand for participation in or subscription to a 'practice'. Thus, there are two reasons why I shall not (when I come to consider it) speak of the understanding implicit in conduct as 'practical understanding': first, because to do so might falsely suggest that the only understanding implicit in conduct is knowing how to participate in practices; and secondly, because knowing how to participate in a 'practice' (and being, in this proper sense, 'practical') is not exclusive to conduct. It is present also, for example, in both 'historical' and in 'scientific' inquiry, both of which are engagements in theoretical understanding released from the considerations of conduct.

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character of a *mere* habit. Customs, principles, rules, etc. have no meaning except in relation to the choices and performances of agents; they are *used* in conduct and they can be used only in virtue of having been learned. Nor do procedures prescribe choices or substantive actions. A rule (and *a fortiori* something less exacting, like a maxim) can never tell a performer what choice he shall make; it announces only conditions to be subscribed to in making choices. And a resolution to 'make a practice' of being punctual is not itself a resolution to perform any particular substantive action.[1]

Thus, a practice may properly be recognized as a language of self-disclosure which can be spoken only by agents. It does not impose upon an agent demands that he shall think certain thoughts, entertain certain sentiments, or make certain substantive utterances. It comes to him as various invitations to understand, to choose, and to respond. It is composed of conventions and rules of speech, a vocabulary and a syntax, and it is continuously invented by those who speak it and using it is adding to its resources. It is an instrument to be played upon, not a tune to be played. Learning to speak it is learning to enjoy and to explore a certain relationship with other agents. The requirements of a practice are not obeyed or disobeyed; they are subscribed to or not subscribed to. What Bagehot called 'coarse, causal, comprehensive usage' is a condition unknown to reflective consciousness; it denotes a process, not a practice. Further, a practice cannot itself be 'performed'. Purely regularian conduct (that is, conduct whose imagined and wished-for outcome is solely that a procedure shall have been observed) is impossible: to make a grammatically faultless utterance is always to say *something*, to use an implement 'properly' is always to make *something*, to follow a routine is always to do *something*, and to act 'dutifully' is always to perform some substantive action whose 'meaning' for the agent lies not in the conditional duty, but in its imagined and wished-for response. A practitioner is always a

[1] The appearance procedures and rules may have of excluding (forbidding), or more rarely of enjoining, substantive choices and actions is illusive. Practices identify actions adverbially; they exclude (forbid) or enjoin them in terms of prescribed conditions. A criminal law, which may be thought to come nearest to forbidding actions, does not forbid killing or lighting a fire, it forbids killing 'murderously' or lighting a fire 'arsonically'; and these adverbs are narrowly specified in terms of the evidence required to substantiate or to rebut the considerations alleged.

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performer, and this holds even in the extreme case where the practice is a ritual.

Conduct *inter homines* is, then, agents disclosing themselves in responding to their contingent situations by choosing what they shall say or what they shall do in relation to imagined and wished-for outcomes, answering one another as seekers and therefore as providers of chosen satisfactions, and related to one another in terms of a multiplicity of practices, each composed of considerations to be subscribed to in choosing and doing, and each constituting a specific formal relationship between the participants. Indeed, agents as historic persons composed of acquired beliefs, understandings, sentiments, imaginings, aptitudes, arts, skills, etc., and capable of self-disclosure in actions, themselves emerge in a transaction between the generations called education, in which new-comers to a local human scene are initiated into its 'mysteries'; that is, into practices which human beings have invented for themselves. And like every other transaction *inter homines*, this engagement to educate is itself utterances, actions, and responses governed by a practice in which a relationship, distinguished from all others, is articulated: the relationship of teachers and learners. And what is learned in this transaction is languages of self-disclosure and self-enactment; not what to do or say, but the arts of agency.

In respect of their generality and their pervasiveness, the two most important practices in terms of which agents are durably related to one another in conduct are a common tongue and a language of moral converse. Of the first of these practices I shall say no more now than that it is the condition both of that prudential deliberative reflection in which situations are diagnosed and responses chosen and of any significant degree of intelligibility and exactness in self-disclosure. No doubt the rude reciprocities of primitive conduct may be articulated in grunts and gestures and in the transparencies of exiguous and familiar actions, and no doubt a language of this sort (a common tongue) is much else besides an instrument of conduct; it is, for example, the condition, and not merely the index, of imaginative magnificence and theoretical understanding. But these considerations do not dispute the observation that a language of this sort is a practice, that to speak such a common language is to be related to others in a specific respect, and that it is an indispensable instrument of conduct

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identified as transactions between agents. Of the second (that of moral converse) there is more to be said, and I shall consider it in some detail.

Moral conduct is agents related to one another in the acknowledgement of the authority of a practice composed of conditions which because of their generality attracts to itself the generic name, 'practice': morality, *mos*. A morality is the *ars artium* of conduct; the practice of all practices; the practice of agency without further specification.

Agents thus related are, of course, seekers of wished-for satisfactions and providers of such satisfactions as are enjoyed; they are engaged in the transitory transactions which constitute substantive conduct. And they are related also in terms of many prudential practices, the rules and uses of which are designed to promote the success of the transactions and activities they govern. These practices or skills may epitomize (well or ill) experience in respect of the achievement of some particular wished-for satisfaction (like the rules for making pastry); they may prescribe methods of handling common situations so that they may yield greater rather than less satisfaction (like an office routine); or they may constitute a procedure which approximates expectations to occurrences thus creating a more manageable future for those concerned, even if these expectations are sometimes inconvenient, like a railway service which runs strictly to a published time-table. And the common characteristic of these practices is to be instrumental to the achievement of imagined and wished-for satisfactions.

But a moral practice is not a prudential art concerned with the success of the enterprises of agents; it is not instrumental to the achievement of any substantive purpose or to the satisfaction of any substantive want. No doubt there may be advantages to be enjoyed in subscribing to its conditions: perhaps honesty is the best policy; perhaps speaking the truth is a condition of all durable association for the satisfaction of wants. But a moral practice, unlike an instrumental practice, does not stand condemned if no such advantages were to accrue. Indeed, recognizing and subscribing to these conditions may be expected to add to the cost of these transactions. Nor is a morality a court of arbitration in which the different and often conflicting purposes of agents and their chosen actions are reconciled to one another and mean satisfactions

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authorized. It is concerned with the act, not the event; with agents as doers making an impact upon one another and not in respect of the particular wants for which they are seeking satisfactions. No action, whether it be of self-gratification or of care for the satisfactions of others, is exempt from its conditions. And no agent, whatever the circumstances of his conduct, is outside its jurisdiction.

This is sometimes denied. The difficulty of recognizing a moral practice as a device for promoting the satisfaction of the wants of individual agents is admitted, but it is said that its conditions are to be understood as those of an unspecified 'social' relationship (distinguished from a transactional relationship) and are alleged to be instruments for procuring a substantive state of things called the 'common good' of those thus related. Or, more generally, it is said that moral considerations are conditions instrumental for the achievement of a superordinate purpose of a human life, 'human excellence', the purpose of all purposes. And agents in respect of moral considerations are recognized as role-performers in the greatest of all human enterprises: the good life.

There is no need to quarrel with such an expression as the 'human good', and the teleological suggestion it contains may be neglected; but this account of the matter will not do. Agents may, of course, be related to one another in the pursuit of a common purpose or in the promotion of a common interest, and where this is so the practice or practices in terms of which they may also be related are properly understood to be instrumental to the common enterprise. But such a common purpose, like any other, is a want for a substantive satisfaction to be procured in co-operative performances, and it must be chosen by each agent related in seeking it. The relationship is constituted in a choice and it subsists so long as this choice is not revoked. But 'human excellence' or 'the human good' is not a substantive purpose to be achieved as the outcome of performances; it is not a purpose which an agent might choose to pursue in preference to the satisfaction of some other want or in terms of which he might or might not choose to be related with others in achieving (and then, perhaps, deliberately revoke the choice), like joining an expedition to climb Mount Everest or agreeing with another to settle in Katmandu. And the 'common good' is not a substantive satisfaction which an agent might or might not choose to be joined with others in procuring,

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like getting in the harvest. These are not, properly speaking, purposes at all; and if a morality is a practice concerned with 'human excellence', then it is not a set of conditions instrumental to the achievement of a purpose. In short, a morality may be identified as a practice without any extrinsic purpose; it is concerned with good and bad conduct, and not with performances in respect of their outcomes. And moral relationship is not association for the achievement of a common purpose (e.g. the greatest happiness of those associated); it is relationship solely in respect of conditions to be subscribed to in seeking the satisfaction of any want.

These are, perhaps, cogent reasons for denying to morality the character of an art or a skill and even for hesitating to recognize it as a language. Certainly, conduct in respect of moral considerations is not an art like flute-playing in which some may engage and others not at all; and certainly a moral practice is not a language like Latin or Spanish with which some and not others are acquainted and in which anything may be said. But it is like an art in having to be learned, in being learned better by some than by others, in allowing almost endless opportunity for individual style, and in which virtuosity and mastery are distinguishable; and it is like a language in being an instrument of understanding and a medium of intercourse, in having a vocabulary and a syntax of its own, and in being spoken well or ill. And on this account I shall continue to write of it in these terms.

Further, a moral practice is not a device for controlling or suppressing biological urges, so-called 'natural' instincts or passions or the alleged powerful egocentric system of 'human nature'. It is concerned with the conduct of agents who have beliefs, sentiments, understandings, etc. and not 'instincts', who have wants and not biological urges, and whose wants are choices to seek imagined satisfactions. Nor is the association it articulates a relationship which supervenes upon a suppositious non-relationship in which agents are imagined to pursue courses of unconditional activity or in which their conduct is subject to merely prudential considerations concerned with what they design or are likely to achieve. A human being does not begin his life in a world lit only by the flickerings of biological urges from which he escapes with difficulty into agency. Nor does he start out equipped with unconditional desires which he learns subsequently to choose between and to

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control with the aid of a moral practice. He comes to consciousness in a world illuminated by a moral practice and as a relatively helpless subject of it. The nurture of children is everywhere performance governed by a moral practice. And the education in which they acquire the prudential aptitudes of agency is indistinguishable from that in which they come to understand the conditions of a moral practice and to understand them as conditions to which they ought to subscribe in making their choices. There is no agency which is not the acknowledgement of a moral practice, and no moral conduct which is not an exercise of agency.

The conditions which compose a moral practice are not theorems or precepts about human conduct, nor do they constitute anything so specific as a 'shared system of values'; they compose a vernacular language of colloquial intercourse. This language is not a vocabulary of abstract nouns denoting recognized *bona* of human conduct in terms of which actions and utterances may be judged, approved or disapproved. Nor is it a language spoken on some occasions (e.g. when explicit moral 'valuations' are being discussed) and not on others; it is spoken, well or ill, on every occasion of human intercourse. Like any other language, it is an instrument of self-disclosure used by agents in diagnosing their situations and in choosing their responses; and it is a language of self-enactment which permits those who can use it to understand themselves and one another, to disclose to one another their complex individualities, and to explore relationships far more varied and interesting than those it has a name for or those which a commonplace acceptance of so-called 'moral values' would allow.

Every such vernacular of moral converse is a historic achievement of human beings. Each is a continuously accumulating residue of conditional relationships learned in an experience of intercourse between optative agents. It emerges as a ritual of utterance and response, a continuously extemporized dance whose participants are alive to one another's movements and to the ground upon which they tread. Its abstract nouns (right and wrong, proper and improper, obligation, dueness, fairness, respect, justice, etc.), when they appear, are faded metaphors, and it is only the uneducated who insist that each must have a single unequivocal meaning indifferent to context. This language is responsive to the aspirations of those who speak it and it is amplified in the *pia libertas* of its conscientious users. It is never

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fixed or finished, but (like other languages) it has a settled character in terms of which it responds to the linguistic inventions, the enterprises, the fortunes, the waywardness, the censoriousness, and sometimes the ridicule of those who speak it. It *is* its vicissitudes, and its virtue is to be a living, vulgar language articulating relationships, responsibilities, duties, etc., recognizable by its speakers as reflections of what, on earth, they have come to understand themselves to be.[1] It is acknowledged by those who speak it, not because a failure to do so is liable to attract a penalty or because it is recognizably advantageous to do so, but because they have been educated in its use and because in speaking it they re-enact it for themselves. It is learned only in being used.

Of course, no such language can ever be perfectly responsive to the demands made upon it; circumstances may convict it of inadequacy and it cannot altogether exempt from dilemma those who speak it. But if it is without resources to respond to the interrogations of circumstance it is already moribund, and it is only in books (and then only in the worst sort) that moral conduct appears as an incessant lurching from perplexity to perplexity and a contorted endeavour to elicit actions from conditional prescriptions. Moral conduct is not solving problems; it is agents continuously and colloquially related to one another in the idiom of a familiar language of moral converse.

Such a language of moral intercourse, in which agents are related to one another, not in terms of procedures favourable to a common substantive enterprise or to the successful outcome of transactions for the achievement of individual satisfactions, but in

[1] Self-understanding is, normally, a continuous engagement of self-education; notable disjunctions (so-called 'identity crises') denote failure. But its relation to a moral practice may be most clearly discerned in unusual circumstances. For example, Christians of the first generation came to understand themselves in terms of their expectation of a dramatic transformation of the world and for some of them this was both a novel and a traditional self-understanding. They were persons awaiting an imminent event, huge in magnitude and importance, and their business in the world was to adapt their current conduct to it. And to understand themselves to be associated in terms of Faith, Hope and Charity (rather than in terms of respect for persons, fairness, truth-telling or unselfishness) seemed to them the appropriate response to their new-found self-recognition. These virtues were not instrumental, devotion to them would not either hasten or delay the event. Nor did they extinguish the more commonplace moral and even civil considerations; these merely became considerations of inferior importance. But this so-called *Interimsethik*, with its emphasis upon self-enactment rather than self-disclosure, represented their reading of themselves and of the human condition.

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the acknowledgement of conditions indifferent to the achievement of any substantive purpose, is an instrument which may be played upon with varying degrees of sensibility to its resources. There is room for the individual idiom, it affords opportunity to inventiveness, it may be spoken pedantically or loosely, slavishly or masterfully; it has rhythms which remain when the words are forgotten. It allows ambages as well as decisive utterance and response. Expressions in it harden into clichés and are released again; the ill-educated speak it vulgarly, the purists inflexibly, and each generation invents its own moral slang. The conduct of some is no better than an adventure in verbiage; clutching at imperfectly recollected and vaguely understood expressions, their conversation is thick with pretention and littered with moral malapropisms. They are aware only of the fashionable indignations. Others recognize a language of moral conduct only in terms of the opportunities it offers for fraud, exploiting its native ambiguities and corrupting it with duplicities of their own contrivance. Few remain totally illiterate; but with some the art of moral agency is an inconsiderable achievement. Like impetuous children, they translate their wants into actions untempered by the compunctions of a moral practice; or, convinced of their own benevolent motives, they mistake the exercise of these for moral conduct.

With us, women are apt to speak this language differently from men; sometimes more and sometimes less punctiliously, but rarely the same. They are apt to get along without any profound respect for rules and they are both more obstinate and more generous; when timid they are more servile and when courageous more reckless. The young speak it differently from the old, not merely because (as Aristotle remarks) they are less competent linguists, but because what he has to say who

Drinks the valiant air of dawn,

who is overwhelmed by the limitless invitations of a human existence, and to whom 'the long littleness of life' is yet undreamed, calls for the lyric mode. Their ingenuousness is not wisdom, but in their shallow utterance a moral language may acquire a refreshing translucence.

Moral association is unavoidably concerned with the young and the old, with those who are setting out and with those who are making the difficult exchange of hope for faith, with men and with

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women, with those who are born to die young and those who live into old age, and the different manners in which differently situated persons speak its language are emblems of the latitudes inherent in moral agency and not blemishes to be deplored. Nor may all its various calls be equally responded to; each man hears and understands the promptings of some allegiances more clearly than others. As the ancient Greek well knew, to honour Artemis might entail the neglect of Aphrodite.

Such a language will have its professional custodians, its grammarians, and its dictionary-makers. There are 'moralists' who explore its hidden resources and uncover its ironies; there are connoisseurs of moral style whose recognitions of grandeur leave room for delight in the small perfection of those flashes of felicity which redeem the dullness of commonplace moral utterance; and there are moral philosophers who probe its postulates. But the unprofessional guardians of this vernacular are those who speak it somewhat monotonously but with a care for its intimations of balance, sobriety, and exactness. Their solid gracelessness makes possible the stylist, the hero, the saint, the aristocrat and the vagabond, who, caring only for its intimations of magnificence, are apt to neglect the prosaic pieties which keep barbarism at bay.

Nevertheless, there are in such a language what may be called a basic vocabulary and some elementary constructions familiar to all whose native language it is. These are *rules* of conduct in terms of which the simple (perhaps indispensable) actions are performed, the plain responses made, and the most commonplace relationships enjoyed.

Moral rules are abridgements. But what they abridge is not prudential deliberation about the fitness of actions to procure their circumstantially wished-for outcomes; indeed, moral rules do not even specify actions in terms of their likely consequences. Nor do they abridge alleged calculations of the tendency of actions to promote a suppositious 'happiness' for ourselves or for mankind in general: conduct is not susceptible of such calculations because it has no such universal substantive 'end'. What they do is to concentrate into specific precepts considerations of adverbial desirability which lie dispersed in a moral language and thus transform invitations into prescriptions, allegiances to fellow practitioners into precise obligations, *bona* into *facienda*. Moral rules specify performances in terms of obligations to subscribe to

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injunctions. What a moral practice intimates as, in general, proper to be said or done, a moral rule makes more explicit in declaring what it is *right* to do.

Where the relationships of a moral practice are articulated in rules they lose some of their characteristic expansiveness. The 'play' between agents in diminished; loyalty becomes legality, *obsequium* supersedes *fides*. And this strictness is magnified where rules become duties. The idea 'duty' is that of a moral practice articulated, not in terms of rules which denote obligations generally owed, but in terms of *officia*; that is, obligations specified in respect of the occupation of 'positions'. An 'office' is an agent standing in an exclusive relationship to other assignable agents in which he owes them a duty: the duty, for example, of a parent or a guardian. The holder of an office is a trustee. Thus, duties denote a moral practice in its most urgent and most exacting character. What is due in respect of the occupation of an office is more precisely determined and more strictly required than is the case in the looser relationships of moral association, and the failure to act in consideration of a duty is a palpable injury to those to whom it is owed. But to owe a duty does not exempt an agent from acknowledging in his conduct the less formal reticences and avowals of moral intercourse; it is an additional stringency. Thus, the idea of strict dueness distinguishes between agents in respect of their 'stations' and it denotes a special relationship. Where 'to keep one's promises' (in the wide sense of 'keeping faith') is recognized as a general consideration in moral relationship, no particular circumstances are mentioned, compliance is not thought of as subject to specifiable 'exceptions', and it is well understood that there are as many different ways of keeping a promise as there are of making it. Where it is recognized as a *rule*, the conduct which will be taken to subscribe to it is more exactly determined, there may be circumstantial 'exceptions' to be taken into the account, and the requirements of this rule may have to be reconciled with those of another. But where (as in the case of a witness giving evidence under oath) it is recognized to be a *duty*, what is due relates to assigned persons; it is spelled out to leave little room for honest hesitation, and utterance is both required and required to be exact subscription.

Rules, duties, and their like (moral principles and dogmas) are, then, passages of stringency in a moral practice. But they should not be thought of as strands of some exceptionally tough material

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woven into the otherwise somewhat flimsy fabric of moral association, constituents not only of notable strength but also of independent authority; conservators of the integrity of a moral practice. Rather, they are to be recognized as densities obtruded by the tensions of a spoken language of moral intercourse, nodal points at which a practice turns upon itself in a vortiginous movement and becomes steadier in ceasing to be adventurous. They may help to keep a practice in shape, but they do not give it its shape. They are abstractions which derive their authority from the practice itself as a spoken language in which they appear as passages of somewhat exaggerated emphasis. Of course, they give only an abbreviated account of the conditions containing the continuous flow of diurnally enacted genial relationships which constitute unaffected moral association; no moral practice can be reduced to the rules, the duties, or the 'ideals' it obtrudes, and *rightness* is never more than an aspect of moral response. And further the considerations which even they enjoin are unavoidably indeterminate. For while rules, etc. announce relatively hard and unambiguous considerabilities to be taken into the account in choosing actions, and while they may occupy an important place in moral education, they cannot themselves designate choices. They are not commands to be obeyed but relatively precise considerations to be subscribed to. They are used in conduct, not applied to conduct; and the moral reflection in which they may be brought to bear upon choosing is deliberative, not demonstrative.

The abstract character of a moral practice identified as a system of rules and their like is revealed in that idiom of *ex post facto* persuasive discourse which is designed to relate actions performed to a moral practice; namely, the engagement to 'justify' a performance. This engagement may be recognized as the counterpart of the uneducated moral deliberation in which actions are chosen, not with a feeling for the qualities and opportunities of a language of moral intercourse, but in respect of their subscription to rules of conduct. It is the acceptance of an invitation to respond to an imputation of moral fault which depends for its cogency upon the requirements of a moral practice being understood as subscriptions to rules. And it is itself a performance, an utterance whose meaning is an imagined and wished-for satisfaction: the charge rebutted, a penalty (if only that of disapproval or censure) avoided, and moral confidence restored.

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To justify a performance is not to undertake to show that it was the best thing to have done in the circumstances, or that it was wise, or to defend it against the imputation of being foolish or imprudent (unless its foolishness was also blameworthy), or to show that it conduced to a suppositious condition of 'happiness'; it is to rebut the imputation that it suffers from the fault of being 'unjust'. And no performance is 'just' or 'unjust' in respect of being a wish to achieve an imagined satisfaction or in respect of its actual outcome, but only in respect of its relationship to a moral practice understood as a composition of rules. The invitation to justify need not be accepted; the belief that an action is somehow morally incomplete unless it is supported by a 'justification' is a superstition. But if it is accepted, it may be responded to only in a persuasive argument which refers to the regularian quality of conduct, an argument designed to 'vindicate'.

A performance may be justified by being shown to belong to a class of actions which (in spite of their differences) all subscribe to the rule it is accused of neglecting, or by pleading the occupation of an office which imposes a specific duty and that the action (whatever else it was) was a fulfilment of that duty, or by showing the connection between an action and an alleged moral principle it is said to have neglected or infringed. 'I made a promise and I contend that my action was one properly to be recognized as *a* keeping of that promise'; or, 'I was right to say what I said because I believed it to be true and I was under oath not to be silent and to say what I believed to be true'; or, 'My action was right because it was done in the name of the ideal fairness.' And if the argument could be arrested there or thereabouts it would be capable of returning an unequivocal and an appropriate reply to the rule-conditioned inquiry which set it on foot. This, however, is impossible. Moral rules and rule-like principles are indeterminate, multiple, liable to conflict, and of unequal importance: none is categorical or is capable of 'specific performance'. And offices and duties are imperfectly specifiable. Consequently, a justifying argument must be allowed some latitude and it must be prepared to rebut more extensive accusations. It must be permitted to plead, for example, that the action should be judged in respect of some other (allegedly more important) rule than that invoked in the indictment, and it must be ready to rebut the contention that the duty alleged to have been fulfilled was inferior to another neglected.

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Thus, to justify an action (that is, to invoke rules and rule-like principles as reasons for having chosen actions) is to embark upon a casuistical enterprise of distinctions, exceptions, and obliquities related to rules in which the vitality of a spoken language of moral intercourse is impaired and its integrity compromised. A calculated observance of specified rules has taken the place of the singleness and spontaniety of morally educated conduct.

This does not mean that expressions of moral disapproval must always be otiose and that answers to them must always be valueless: performances are not arbitrary acts of a sovereign 'will', and their relation to a moral practice must always be important. It means that this rule-oriented indictment of actions rests upon a foreshortened understanding of the character of a moral practice, and that the self-justification sought in rebutting it is trivial. Moral prescriptive principles and rules are not criteria of good conduct, nor are they primarily instruments of judgement; they are prevailing winds which agents should take account of in sailing their several courses.

So far, I have identified a moral practice as a procedure or language of self-disclosure. The conduct it relates to is the intercourse of agents, each concerned with procuring imagined and wished-for satisfactions (which need not be self-gratifications) and each seeking them in responses of another or of others. Actions, here, are performances in respect of their being responses to contingent situations conducive to the achievement of imagined outcomes.

But there is another side to conduct and another aspect of moral practice to be noticed. For, conduct is not only actions related to the achievement of imagined and wished-for outcomes, although it is always this. It is, also, actions in respect of being exploits in the self-enactment of agents; that is, actions understood in terms of the motives in which they are performed. And moral conduct is not only agents engaging in transactions with one another in the recognition of the authority of considerations to be subscribed to in choosing and seeking satisfactions, it is also an agent enacting himself in terms of the motives in which he permits himself to act. For example, a man may, on a certain occasion, faultlessly perform the duties of an office he occupies, his action or utterance may be an undeniably appropriate subscription to the considerations which denote the office and were called for by the occasion,

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and he may thus earn the recognition of having acted 'rightly' even from those who might not consider what he did to have been altogether the best thing to have done in the circumstances; but this is not the end of the matter. He might have done what he did out of fear of being deposed from his office (or, indeed, any other fear), out of pride in responding to the trust reposed in him, or from any of a number of other motives or mixtures of motives; and the moral quality of his action as an exploit in self-enactment will be related to the motive or motives in which he acted.

Some writers (Mill, for example), while not altogether ignoring this feature of human conduct, have denied it any moral significance. To others it has seemed to be not only its most important conditional feature but to be that to which the term 'moral' exclusively refers. Aristotle, from one point of view, and Kant from another, are, perhaps, writers of this persuasion; the one in his concern with the 'virtue' of actions (as distinct from the qualities of their intended outcomes), and the other in his concern for the motives in which actions are performed. But be that how it may, I propose to recognize conduct in respect of its being self-disclosure, and conduct in respect of its being self-enactment, as two distinct considerations present in all human activity, each calling for and receiving recognition in the conditions and promptings of a language of moral conduct.[1] And I propose to explore the distinction between them with a view to determining how they stand to one another.

All actions are 'motivated' and may be considered in respect of their motives. And by a motive I mean, not an antecedent drive or tendency or disposition to choose one action (or one kind of action) in preference to another, but an agent's sentiment in choosing and performing the actions he chooses and performs. Thus, while the 'intention' of an action is the action itself understood in terms of the imagined and wished-for outcome the agent means to procure in choosing and performing it, the 'motive' of an action is the

[1] These disparate considerations may be said to be concerned respectively with justice and guilt on the one hand and honour and shame on the other. But, although a practice of moral conduct may give more weight to the one and less to the other, it must recognize both; an exclusively 'justice' morality or an exclusively 'honour' morality is impossible. This is recognized in the Protogorean myth where Zeus (indistinguishably the fountain of both justice and honour), sends Hermes to bestow upon mankind both *Dike* and *Aidos*. Plato: *Protagoras*, 332c.

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action itself considered in terms of the sentiment or sentiments in which it is chosen and performed. An agent may, for example, choose to perform an action in a sentiment of greed, fear, compassion, resentment, benevolence, jealousy, love, hatred, kind-heartedness, pity, envy, etc.; and he may act grudgingly, charitably, maliciously, obligingly, magnanimously, piously, spitefully, gratefully, or avariciously. No doubt these words specify sentiments which, in conduct, may be inextricably mixed, and it may be difficult for the agent himself to be confident about the sentiment in which he is acting, but choosing an action is always meaning to procure a satisfaction in a motive of some sort. And unless agency is denied, these motives must be recognized as sentiments in which a man permits himself to act and not as organic impulses or urges. But in order to distinguish what I have called self-enactment from self-disclosure and to recognize self-enactment as a distinguishable engagement in agency, it is not necessary to suppose that an agent in deliberating and choosing an action in relation to a wished-for satisfaction *also* deliberates and chooses the sentiment in which he is to act. What we are concerned with are not psychological states, but the differences which distinguish conduct in respect of its being an agent seeking what he wants from conduct in respect of its being an agent thinking as he chooses to think and enacting or re-enacting himself as he wishes to be.

The sentiment in which an action is performed and its intended outcome are distinguished from one another in the first place in not being related in a manner such that the one implies, or is even a signal of the other. No doubt it is the case that the sentiment in which an agent acts may be, somewhat indistinctly, betrayed in the manner of his acting, in his facial expression, his tone of voice, a gesture, or an attitude; and in so far as it is ascertainable it is known in the same way (though not necessarily with the same confidence) as anything else about an action may be known. But the sentiment has no direct relation to the action as an intention to procure a satisfaction. A man may kill in a sentiment of compassion or of hatred; he may mean to keep a promise in a motive of greed, of gratitude, or of resentment; he may concern himself with another's wants out of fear, kindness, pity, or contempt. And, on the other hand, an agent's choice or disposition to respond to his situation in, for example, a motive of charitableness, of fear, or of avarice is not

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itself the choice of a response. Spite, greed, jealousy, or benevolence do not specify actions.

And there is another considerable difference between conduct as self-disclosure and conduct as self-enactment. Self-disclosure is in transactions with others and it is a hazardous adventure; it is immersed in contingency, it is interminable, and it is liable to frustration, disappointment, and defeat. No doubt an agent in respect of what he means to do is invulnerable, but his choice is a response to an understood contingent situation and is therefore infected with contingency, and becoming a performance it falls into the hands of other optative agents who may defeat it and will certainly compromise it. And even if what survives bears some relation to the meaning of the act, it may disappoint and it will certainly reveal itself as but another situation to be diagnosed and responded to. Here, even the excellences of things are their undoing: 'Don Juan lui-même n'achève pas sa liste.' In short, this exercise of agency is movement about a world where achieved satisfactions breed wants, a world habitable only when the energy of pursuit is prudentially mixed with *nonchaloir* in respect of the outcome.[1]

But where agency is self-enactment, where the consideration in doing is not what is intended to be achieved but the sentiment in which it is done, conduct is released from its character as a response to a contingent situation and is emancipated from liability to the frustration of adverse circumstances. For, what the agent chooses to think is related to his understanding and respect for himself, to the integrity of his character, and not at all to his understanding of a contingent situation to which he must respond by choosing an action. And since what he thinks in this manner does not seek an outcome in the responses of other agents, it is released from having to submit to the compromises they impose. In this consideration of it, an agent's conduct, of course, remains an adventure inseparable from the adventure of doing, and in these enactments and re-enactments of himself he may so far forget himself as to

[1] This consideration has an important place in both the Stoic and the Epicurean understanding of conduct and it may be expressed in various ways, some more technical than others. The expression I have used comes from Montaigne: 'Nous sommes nés pour agir. Je veux qu'on agisse et qu'on alonge les offices de la vie tant qu'on peut; et que la mort me treuve plantant mes chous, mais nonchalant d'elle, et encore plus de mon jardin imparfait.' Montaigne: *Essais*, I.XX. 'Que philosopher c'est apprendre à mourir'.

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affront his own integrity and thus turn them into misadventures. But, in these encounters with himself, an agent's conduct is not an interminable succession of actions and utterances inexorably opening out of one another, each hazardous because the satisfaction it looks for is the response of another. Here, doing is delivered, at least in part, from the deadliness of doing, a deliverance gracefully enjoyed in the quiet of a religious faith.

In conduct, then, there are two inseparable but distinguishable considerations: that of actions as adventures to procure wished-for substantive satisfactions in the responses they receive, and that of actions in respect of being exploits in self-enactment and re-enactment. And a language of moral conduct is concerned with both these considerations.

In regard to the first of them, I have suggested that moral conduct is to be recognized as agents seeking satisfactions in the responses of one another and acknowledging, in this reciprocal intercourse, the authority of a language which articulates considerations, rules, duties, etc., to be subscribed to in choosing and pursuing these satisfactions. 'Good' conduct here is choosing and doing in adequate subscription to these considerations. And to what has already been said on this theme it may perhaps be added that, even here, a moral practice, in providing conditions for acting, provides something more; namely, some slight relief from conduct as an endless succession of mere adventures in self-disclosure, each the chosen response of an agent to his contingent situation. It cannot, of course, promise a future and final achievement in which activity will cease for want of anything to wish for, nor does it give system to conduct by revealing it as a teleological process in which each action is 'good' in respect of its being related to a predetermined end, and consequently a morality here does nothing to modify the interminability of doing. But in stipulating general conditions for choosing less incidental than the choices themselves, in establishing relationships more durable than those which emerge and melt away in transactions to satisfy a succession of contingent wants, and in articulating rules and duties which are indifferent to the outcome of the actions they govern, it may be said to endow human conduct with a formality in which its contingency is somewhat abated.

In regard to conduct in respect of the sentiments or motives in which actions are chosen and performed, a morality specifies

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conditions of worthy self-enactment. The compunctions it enjoins are not concerned with recognizing agency in others but with an agent's exercise of his powers of agency in respect of himself. And they are genuine compunctions. The fashionable so-called 'morality of conscience' in which good conduct is identified with the contingent self-approval of the agent concerned is no less preposterous in relation to self-enactment in motive than it is in respect of self-disclosure in action. For, although a man's integrity is certainly something which, if he loses it, he loses all, and although the art of moral agency must include a graceful submission (or, on rare occasions, a fierce adherence) to the qualities which belong to his own character if this is required to keep himself intact, this knowing how to be loyal to himself is not a specification of worthy self-enactment but a postulate of moral conduct. The sentiments in which he acts must be emblems of his self-command if they are to contribute to his self-enactment, but the quality of that self-enactment will depend upon the quality of these sentiments in terms of their subscription to a moral practice. Just as in a theoretical engagement the *meum* of the theorist must exhibit itself in relation to an *argumentum* or a *verum*, so in worthy self-enactment the *meum* of the agent, his 'authenticity', is subscription to an *honestum*. There is nothing 'merely subjective' in motives.

Thus, a moral practice is, in part, a language of self-enactment; that is, a language in which conduct may be recognized in terms of its 'virtue' and an agent may recognize himself in respect of his 'virtuousness'. And since 'virtuous' self-enactment is speaking this language as it should be spoken, it is not to be thought of as obeying injunctions to act in certain sentiments but as responding to an invitation to choose and to cultivate some sentiments rather than others in which to act. There is no one principle or categorical imperative of 'virtuous' conduct when we go beyond the postulate that it is not virtuous unless it is chosen; and, although a moral language may obtrude rules and duties, these are not targets to be aimed at but nodal densities of sentiment to which an agent who is familiar with the language and who acknowledges its authority recognizes himself to be incited to subscribe. Learning to speak a language of self-enactment is learning how to subscribe to its intimations of 'virtue'; speaking it is to be as unconcerned as may be with the brittle pursuit and enjoyment of satisfactions and therefore as indifferent as may be to its frustration. But conduct in

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respect of being 'virtuous' self-enactment is not to be confused with 'altruistic' conduct. This expression and its likes refer to the quite different considerations of actions in respect of their intended consequences, while 'honour', 'integrity', *aidos*, *prud'homie* (or however it may be identified), which is the consideration here, is totally indifferent to consequences of any sort. And it is this (and not a man's indifference to his own interests) which constitutes its release from the bondage of contingent circumstance.

The compunctions of 'virtuous' self-enactment and those of moral self-disclosure are, then, of different sorts; the first concerns the characters of agents in respect of their dispositions of sentiment, and the second refer to choices and actions performed. This is apt to be obscured in our indifferent use of the words which denote these compunctions. Thus, when it is said that a man gave 'generously', this may attribute to him a sentiment of generosity or it may mean no more than he chose to give more than he needed or was expected to give, which says nothing at all about his motive in giving. A 'friendly' action may mean one intended to be appropriately considerate of the interests of another or it may mean one done in a sentiment of 'friendship'. And Hobbes remarked that a 'just' action might be performed in a variety of different motives (the commonest, he thought, was fear), but that the word 'justice' stood *also* for a 'virtue', that is, a particular sentiment in which an otherwise 'just' action might or might not be performed, which he identified as a contempt for being unjust. But putting on one side this liability to confusion, the relationship between these two sorts of compunction, although intricate, is not obscure.

Self-disclosure is (briefly) choosing satisfactions to pursue and pursuing them; its compunction is, in choosing and acting, to acknowledge and subscribe to the conditions intimated or declared in a practice of moral intercourse. To act is to be a 'free' agent; and these conditions articulate in relationships, customs, rules, duties, etc., considerations currently believed to be appropriate in the intercourse of 'free' agents. Subscription to them is unavoidably indeterminate, and moral association may as easily founder in censoriousness as in indifference. But notable failure to recognize these conditions is to be *guilty*.

Self-enactment is choosing the sentiments in which to act; and its compunctions are conditions of 'virtuous' self-enactment intimated in a language of moral conduct. And, although these

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conditions are apt to be less emphatic than those of moral self-disclosure, the simpler of them are never in doubt. Our moral language may often be confused in its identification of 'virtuous' or 'vicious' sentiments, but it is not undecided whether or not to applaud malice or to disapprobate a motive of good faith or generosity. And it is of no consequence that we cannot answer the question, Why is magnanimity a virtue and envy a vice? or even that we do not know how to answer it. The compunctions of self-enactment are, then, demands an agent makes upon himself in which he requires of himself a *délicatesse* of conduct which cannot be required of him by another, which he may not make a show of requiring of others, but which are not merely his own good opinion of himself: the requirement of thinking about himself as he should while doing what he ought.[1] Conduct which notably fails to observe this condition is *shameful*.

As agents in moral association we certainly recognize one another to be concrete moral persons and not merely agencies of self-disclosure, and the moral education imparted in learning how to speak a language of moral conduct intelligently is no less an education in 'virtuous' self-enactment than in moral self-disclosure. We are not indifferent to each other's exploits in self-enactment, we readily admire noble self-enactment when we discern it, and we have more confidence, for example, in a man whose subscriptions to his obligations seem to be made in good faith rather than in fear. But our concern with the sentiment in which the action of another is performed is limited by a recognition of our hardly avoidable ignorance and by the conviction that in ordinary human intercourse a man's choices of what to do and the compunctions they exhibit matter more than the sentiment in which he makes them. In respect of motives it is appropriate that we should take our fellows as we find them; not 'judging' them (as we sometimes have to judge their self-disclosures), but contemplating them with admiration, with reserve, or with indulgence.

Since a vocabulary of moral self-disclosure and a vocabulary of virtuous self-enactment are a single language, the considerations they specify cannot be discrepant in any important respect; nevertheless, they concern different things. Worthy self-enactment

[1] This self-enactment may go on without the counterpart of self-disclosure in action or utterance, e.g. in the manner in which we allow ourselves to think of the actions and characters of others.

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is never the same thing as adequate subscription to the conditions of moral self-disclosure, and the compunctions of moral self-disclosure in actions are not themselves observed in subscriptions to the conditions of worthy self-enactment.

It is sometimes thought that significant achievement in either of these concerns licenses or at least compensates for the neglect of the compunctions of the other; but this is not so. These different concerns approach one another when moral discourse is to do with *excuse*, but neither here nor anywhere else do they properly touch, much less overlap or coincide. For although the 'virtuousness' of the sentiment in which an alleged wrongful act was performed may sometimes properly be pleaded in an argument to exonerate the agent from blame or penalty, this argument begins with the admission of fault ('qui s'excuse s'accuse', as they say), and never suggests that the wrongfulness of the act is cancelled by the virtuousness of the motive; and, indeed, piety aggravates fraud.

The members of the Order which constituted the Abbaye de Thélème dispensed with rules and duties to govern their conduct and took as their Rule a precept about how they should think when acting: the Augustinian principle of conduct, 'Love and do what you will.' But, Rabelais tells us, this was a sufficient Rule, not because 'virtuous' sentiment suffices, nor because the Thélèmites had been miraculously redeemed from inclination to incontinent self-assertion in their adventures in self-disclosure, but because they were well-born, well-bred, and well-educated in a language of moral intercourse. In the absence of rules and duties, wanton conduct was to seek in the Abbaye (and in the lives of those who went thence into the world), not because the Thélèmites were conspicuously indifferent to self-disclosure in action, nor because Rabelais believed that worthy sentiment necessarily excludes wrongful conduct, but because of their exceptional mastery of a vernacular of moral self-disclosure and their unhesitating acknowledgement of its authority.

A morality, then, is neither a system of general principles nor a code of rules, but a vernacular language. General principles and even rules may be elicited from it, but (like other languages) it is not the creation of grammarians; it is made by speakers. What has to be learned in a moral education is not a theorem such as that good conduct is acting fairly or being charitable, nor is it a rule such

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as 'always tell the truth', but how to speak the language intelligently. It is a language of reflection as well as of communication; it concerns self-enactment no less than self-disclosure in actions which call for the responses of others; it is spoken continuously and not merely in making or discussing so-called 'valuations'. It is not a device for formulating judgements about conduct or for solving so-called moral problems, but a practice in terms of which to think, to choose, to act, and to utter.

As a practice, it does not prescribe choices to be made or satisfactions to be sought; instead, it intimates considerations to be subscribed to in making choices, in performing actions, and in pursuing purposes. Consequently, it postulates 'free' agents and it is powerless to deprive them of their freedom. Subscribing to a practice cannot turn conduct into a 'process', however slavish that subscription may be. What is called 'moral autonomy' does not require moral choice to be a gratuitous, criterionless exercise of a so-called 'will' (an isolated *meum*) in which a lonely agent simultaneously recognizes or even creates a 'value' for which he is wholly responsible and places himself under its command, thus miraculously releasing himself from organic impulse, rational contingency, and authoritative rules of conduct. Nor is it conditional upon an agent's critical consent or approval of a rule of conduct in terms of a recognition of purported reasons for considering it to be desirable. Nor, again, does it require some other release from having to recognize a rule of conduct merely in terms of its being a rule; that is, in terms of its authority. Indeed, strictly speaking, there is no such experience as 'moral choice'. What is chosen in conduct is a substantive action or utterance in which an agent embarks upon the adventure of seeking an imagined and wished-for satisfaction in the response of another. And his 'moral autonomy' lies, first, in his character as an agent (that is, in his action or utterance being a response to an understood want and not the consequence of an organic impulse), and secondly, in his action or utterance as self-disclosure and self-enactment in a contingent subscription of his own to the conditions of a practice (which cannot tell him what to do or to say) recognized in terms of its authority. Human conduct is not first having unconditional wants (individual or communal) and then allowing prudential reason and moral sensibility to indicate or to determine the choice of the actions in which their satisfaction is sought; it is wanting

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intelligently (that is, in recognition of prudential and moral considerations) and doing this successfully or not so successfully.

And a moral language is a language of propriety, not of prudence. The considerations of a moral practice are not principles and rules purporting to be instrumental in promoting the achievement of an alleged desirable substantive condition of things—human 'well-being', or 'happiness', or the unhindered pursuit of 'ends' of allegedly superior 'worth'; nor are they concerned with an agent's success or failure in his transactional engagements with others. They are conditions of conduct which, for those who acknowledge them, reflect their self-understanding as persons concerned with the quality of their self-disclosures and self-enactments and with relationships other than the transactional associations in which they seek the satisfaction of an endless succession of contingent wants in the responses of others.

That a moral language should be spoken more or less exactly and with varying degrees of grace or clumsiness, and that there should be near-illiterates and fraudulent verbalizers; that it should be subject to change, that neologisms should make their appearance, and that antique expressions should survive in its interstices; that it should sometimes be unequal to the occasion and that it should not only be liable to corruption but also commonly corrupt—none of these circumstances is at all remarkable: they are the vicissitudes common to all vernacular languages. Nor is it unexpected that, in these circumstances, it should not lack authority: neither changelessness nor perfection is a necessary condition of authority.

That there should be many such languages in the world, some perhaps with familial likenesses in terms of which there may be profitable exchange of expressions, is intrinsic to their character. This plurality cannot be resolved by being understood as so many contingent and regrettable divergencies from a fancied perfect and universal language of moral intercourse (a law of God, a utilitarian 'critical' morality, or a so-called 'rational morality'). But it is hardly surprising that such a resolution should have been attempted: human beings are apt to be disconcerted unless they feel themselves to be upheld by something more substantial than the emanations of their own contingent imaginations. This unresolved plurality teases the monistic yearnings of the muddled theorist, it vexes a moralist with ecumenical leanings, and it may disconcert an unfortunate who, having 'lost' his morality (as others have been

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known to 'lose' their faith), must set about constructing one for himself and is looking for uncontaminated 'rational' principles out of which to make it. But it will reassure the modest mortal with a self to disclose and a soul to make who needs a familiar and resourceful moral language (and one for which he may hope to acquire a *Sprachgefühl*) to do it in and who is disinclined to be unnerved because there are other such languages to which he cannot readily relate his own.

To this consideration of moral conduct I will add a brief recognition of religious belief: not to do so, however inadequately, would be to leave this account of human conduct inexcusably incomplete.

The gift of a religious faith is that of a reconciliation to the unavoidable dissonances of a human condition, a reconciliation which is nether a denial, nor a substitute for remedial effort, nor a theoretical understanding in which the mystery of their occurrence is abated or even dispelled, but a mode of acceptance, a 'graceful' response. The general character of a man's religion, like the language he speaks and the poetic utterances evoked from it, is a historical contingency, and if it were not so it would be worthless: he is, himself, a 'history'. It is composed of sentiments, beliefs, images, etc., from which he may draw something particularly his own, answering to his own understood situation. He is fortunate where he has a religion, a *traditio*, of notable imaginative splendour to draw upon; and while this reconciliation may be no more than that of a somewhat anxious equanimity or a patiently nurtured hope, it is as complete as it may be when it is a release from care and generates an unostentatious, unaccusing serenity in conduct. Like anything else, a religion may evoke a reflective consideration of its postulates and a theology may emerge from this engagement; but, although a faith is an understanding, a theoretical understanding of a faith is not itself a faith.

A human condition is but rarely recognized as one of totally unrelieved agony, a 'city of dreadful night'; but its commonly felt dissonances are disease, urgent wants unsatisfied, the pain of disappointed expectations, the suffering of frustrated purposes, the impositions of hostile circumstances, the sorrows of unwanted partings, burdens, ills, disasters, calamities of all sorts, and death itself, the emblem here of all such sufferings. These miseries are hardly less keenly felt or less deeply resented when they are

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recognized to be, in part, the consequences of the prudential folly of the sufferer than when they are taken to be totally unmerited misfortunes. They are not ills merely to those who suffer them; indeed, they are often more difficult to countenance in the fortunes of others than in one's own. Their incidence has no plausible relation to good or ill-doing, although they may be believed to represent the displeasure of gods of uncertain temper, to be warded off by appropriate observances in which a precarious *pax deorum* is preserved. And whatever immediate remedy may be found for particular occasions of suffering, or for whole classes of these ills, the dissonance remains: a suffering relieved is not a cancellation of its occurrence.

The reconciliation provided in a religious faith to a human condition recognized, because of its miseries and uncertainties, to be a 'vale of tears' (even if smiles are not wholly absent) has often been no more than a somewhat prosaic consolation: a belief that present ills will hereafter be redressed, that parted lovers will be joined never again to be separated:

> Wait for me there; I will not fail
> To meet thee in that hollow vale.

Or, it has been fastened to a belief that these miseries are sent to 'try' or to educate us and that great sufferings patiently endured here are the passport to future happiness; this world is a 'vale of soul-making'. Or, it has been found in a faith in which future compensations for present ills have little or no place—a faith such as that set out in the doctrine of *fortuna* in Boethius' *Consolations of Philosophy*. Or again, an austere reconciliation has been found in the belief that the human condition is not a providential order but that it is part of a cosmic process and these miseries are, like everything else, examples of the operation of inflexible 'laws' against which it would be absurd to kick—a faith which endowed Lucretius with equanimity and Harriet Martineau (somewhat unaccountably) with joy. And so on, in various degrees of imaginative poverty or magnificence, even the poorest of them awakening the understanding and winning the respect of anyone who has known or seen great sorrow.

There is, however, another level where the dissonances of a human condition to which reconciliation is sought are not disappointed hopes or hardly-to-be-avoided miseries, but never-to-

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be-avoided sin, the condemnation it entails, and the destroying guilt with which it may be joined. Specific wrong-doings *inter homines* may be attended to by human beings with whatever justice they can muster and with whatever mercy they think they can afford; punishing the guilty and compensating the harmed. For the rest, those who suffer from the ill-doings of others (infidelities of various magnitudes) defend themselves as best they may within the canons of civilized conduct, and great and irreparable human injuries turn themselves into misfortunes to which reconciliation is perhaps possible in terms of the religious faith I have already noticed—a grim fortitude, a hope of compensation hereafter, or a graceful acceptance. And the remorse of the ill-doer (which may be as destructive as the injuries he inflicts) may become bearable in somewhat the same terms. But the idea of sin is the idea of offence against God, and it is at once less and more calamitous than all other ill-doing.

The injuries men do to one another may be forgiven or forgotten, but even the least of them may leave a mark which neither remorse, nor compensation, nor punishment can expunge; deities, on the other hand, cannot be irreparably damaged. But in whatever general terms sin is understood (the hubris of Homeric Greece, the hardly distinguishable Augustinian *superbia*, or a banal concupiscence), the relationship it threatens or severs is paramount, and consequently a religious faith here is both a belief that this severance cannot be unconditionally irreparable and an image of this reconciliation here or hereafter. Indeed, in recognizing wrong-doing as sin we deprive it of its fatality without lessening its enormity; we create a refuge from the destroying *Angst* of guilt. And I need not rehearse in detail the varieties of religious belief in this respect: placatory sacrifice, expiatory punishment, 'justification', universal or selective redemption, absolution won on various conditions, atonement, and the forgiveness of an ever-loving God who may even be suspected of a penchant for penitent reprobates: 'O felix culpa quae talem ac tantum meruit habere Redemptorem.'

But while religious faith may be recognized as a solace for misfortune and as a release from the fatality of wrong-doing, its central concern is with a less contingent dissonance in the human condition; namely, the hollowness, the futility of that condition, its character of being no more than 'un voyage au bout de la nuit'. What is sought in religious belief is not merely consolation for woe

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or deliverance from the burden of sin, but a reconciliation to nothingness.

The inherently episodic character of the diurnal adventures of self-disclosure which compose a human life may be masked in the greatness of an agent's devotion to his aims and in his singleness of purpose, or it may be somewhat more securely hidden where these can be recognized to concur in the promising pursuit of purposes more enduring than those of a single agent and his immediate associates: the iniquity of oblivion eclipsed by posthumous glory. But what is thus concealed in the illusion of affairs is not thereby extinguished. Every action is a fugitive transaction between mortal agents, its outcome not merely uncertain but fragile and soon dissipated. Every satisfaction is casual and late or soon a casualty. Where conduct is the choice and pursuit of substantive conditions of things every achievement is evanescent, and (as Augustine says) he who thinks otherwise 'understands neither what he seeks nor what he is who seeks it'. And no projected future can be any different from the present in this respect.

This unresolved and inconclusive character of human conduct is qualified (and not merely concealed) when actions are recognized as self-enactments; that is, when they are understood in terms of the sentiments in which they are performed. There is at least the echo of an imperishable achievement when the valour of the agent and not the soon-to-vanish victory, when his loyalty and fortitude and not the evanescent defeat, are the considerations; and even an action in respect of its being dutiful is released from the transitory arbitrament of substantive inconclusion. And this echo of durability (though not of durable self-fulfilment) may even be heard where what is being attended to is, for example, the magnitude of the agent's malice and not merely the injuriousness of his action: the grandeur of devilry. But nowhere is it more than a distant echo. Self-enactment (virtuous or otherwise) is itself an episodic and an inconclusive engagement, as *ondoyant* and as full of unresolved tensions as any other. It is never separable from the deadly engagement of agents disclosing themselves in responding to their contingent situations and achieving their passing satisfactions or suffering their transitory disappointments. And the enacted self is itself a fugitive; not a generic unity but a dramatic identity without benefit of a model of self-perfection. 'Man is time's eunuch', he does not 'breed one work that wakes'. And death is not a con-

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clusion: at best it is final exploit of self-enactment and self-disclosure, a graceful acquiescence in the deadliness of the world's joys and the world's sorrows; at worst, not an act at all but an inconsequent disappearance from the scene.

There are some, no doubt, with whom this condition goes unrecognized; those, for example, who are continuously protected in the illusion of affairs. And there are others who so far misunderstand it as to think that there is something which may be *done* to stay the rot of time; those who are buoyed up by the expectation that unsatisfied want or even death itself might be abolished in a technological break-through, or who are supported by other such hopes of 'cure' for what they mistake for the disease suffered by the patients in this alleged gnostic sanatorium. And others, again, may reconcile themselves to it in a contemptuous defiance of this common and continuous destiny. But with many it is a sufficiently familiar and a disturbing enough predicament—intermittently experienced and felt with varying degrees of intensity—to call not only for acknowledgement but for response. And it is not surprising that the poetic images of human life should commonly be images of evanescence and mutability. This, and neither casual misfortune nor sin, is the central concern of religious imagination:

Knit me that am crumbling dust.

Religious faith is the evocation of a sentiment (the love, the glory, or the honour of God, for example, or even a humble *caritas*), to be added to all others as the motive of all motives in terms of which the fugitive adventures of human conduct, without being released from their mortal and their moral conditions, are graced with an intimation of immortality: the sharpness of death and the deadliness of doing overcome, and the transitory sweetness of a mortal affection, the tumult of a grief and the passing beauty of a May morning recognized neither as merely evanescent adventures nor as emblems of better things to come, but as *aventures*, themselves encounters with eternity.[1]

[1] What I refer to here is, of course, but one idiom of religious faith, which has its counterparts elsewhere and at other times. It is that idiom of Christian faith in which twelfth-century European religious imagination caught up and transformed into a reading of human life scenes from the gospels, the somewhat prosaic expectations of early Christianity, the at once severe and generous Augustinian faith and current Celtic and Teutonic poetry and legend, which was expressed, for example, on the *Queste del Saint Graal*, and the ironies of which were explored by Cervantes.

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A religion is what I have called a practice; it is a consideration in self-enactment. A man may enact himself religiously, but there are no religious actions. Every religion, each with its own image of deity and of self, has its own idiom of faith which reflects the civilization of the believer. It may be terrible, it may sink to the prose of a merely anticipated release casting its light back upon a malignant present condition, or it may rise to a serene acquiescence in mortality and a graceful acceptance of the *rerum mortalia*, joys and sorrows alike transformed. But the dignity of a religion lies in the intrepidity of its acknowledgement of this human condition, in the cogency of the reconciliation it intimates, and in the poetic quality, humble or magnificent, of the images, the rites, the observances, and the offerings (the wisp of wheat on the wayside calvary) in which it recalls to us that 'eternity is in love with the productions of time' and invites us to live 'so far as is possible as an immortal'.

Human conduct, then, is agents disclosing and enacting themselves in responding to their understood contingent situations by choosing to do or say *this* rather than *that* in relation to imagined and wished-for outcomes, in the exercise of chosen sentiments, and in terms of a multiplicity of arts and practices presided over by a practice of moral conduct and perhaps a religious faith. Totally unconditional or 'artless' conduct is impossible, as impossible as an utterance in no language in particular. Every such practice is a procedure to which the deliberation and choice of actions may subscribe but which does not determine, specify, or command substantive performances. And all the more significant of them are unfinished, historic human achievements into which successive generations may be initiated and upon which each successive generation makes its impression.

But in order to recognize this various inheritance of practices in its proper character as a human achievement and as a condition of all human self-disclosure and self-enactment, we do not need to follow those who tell us that its author is Man and that its current repository is Society, who are tireless in inviting us to understand ourselves as debtors to Man and moral and technological dependants of Society, and who understand entry into it as a process of 'socialization'. Indeed, this is a categorially mistaken view of the matter. This so-called 'social inheritance' is an accumulation of

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human understandings and is composed of the moral and prudential achievements of numberless individuals expressed in terms of the rules and conditions which specify a multiplicity of particular practices. It is a collected, not a 'collective' achievement. It can be enjoyed only in being understood and understood only in virtue of having been learned, and it is explored and re-enacted in a reflective consciousness whenever any part of it is being used. None but an individual initiate can either use it or educate others in its use. It is not Man who relieves the ills of an invalid, nor is it some abstraction called 'medical science'; the healer is a specific practitioner who has learned his art, not from Society, but from particular teachers. It was not to Man that Newman said he 'almost owed his own soul', but to one whom he had encountered early in life. Meditating upon his moral and intellectual inheritance, Marcus Aurelius tells us precisely who were his teachers and what he learned from each. And it was Étienne de la Boétie, not Man or Society, whom Montaigne recalled as a witness of his conduct that he might live less carelessly. Man has no moral or intellectual stature, Society has no moral or intellectual worth. In short, the arts of agency are nowhere and never to be found save in the understandings of adepts; there is nothing whatever to correspond with the corrupt and corrupting expressions, 'collective understanding' and 'social learning'.

Moreover, the 'social' character of conduct *inter homines* is its character in respect of agents being associated in terms of some specific and understood conditions of association. No doubt the conduct of agents may be said to have a distantly 'social' quality merely because the satisfactions they seek in acting are always the wished-for responses of other agents: but this is insignificant. And this 'social' quality appears perhaps more distinctly on those intermittent occasions when agents, having expressly chosen to concur in seeking a common substantive satisfaction, thus become partners in a joint enterprise; although neither here nor anywhere else is there anything to correspond with the vile expression 'social choice'. But human conduct is continuously and decisively 'social' only in respect of agents being associated in terms of their understanding and enjoyment of specific practices. For, a practice is not only an art in terms of which an agent, having learned it, may disclose and enact himself; it is, at the same time, a procedure in which agents may be durably associated while pursuing their

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individual purposes—as is the case, for example, with agents who speak a common tongue. And the conditions which specify practices may be said to be the 'constitutions' of those numberless associations in which the conduct of agents declares its 'social' character. Every such association is a *societas* of agents joined, not in seeking a common substantive satisfaction, but in virtue of their understanding and acknowledgement of the conditions of the practice concerned and of the relationships it entails. Agents cannot be associated in respect of no conditions in particular; and there can be no unconditional association to correspond with the expression 'human society' as it is now commonly used. And, of course, there can be no social consciousness which is not the consciousness of a *socius*; that is, of a particular agent understanding himself to be associated with others in recognizing the conditions of some specific practice.

Thus, conduct *inter homines* may properly be said to be 'social' only in virtue of the manners in which 'free' agents are actually associated; that is, in respect of their being associated in a multiplicity of practices of various dimensions and complexities, degrees of independence, and differences of status. This multiplicity of association does not itself compose a 'society', much less anything that may properly be called a 'community'; but a moral practice, as the *ars artium* of agency, is agents related to one another in terms of conditional proprieties which are expressly or tacitly recognized in the conditions of all other special prudential relationships and manners of being associated in conduct.

6. Having identified reflective consciousness as a postulate of conduct (and thus conduct as an exhibition of intelligence entailing understanding), it might be thought that I am concerned only with those transactions *inter homines* which are distinguished by a significant degree of self-conscious reasoning or calculation; that is, with those actions which are preceded by an express investigation of the situation to be responded to, of the possible alternative responses, of the likely consequences of each and of the relation of each to the conditions of the practices recognized to be concerned, and with carefully composed utterances designed to evoke well-imagined responses. And it might be supposed that what I have said has, by inadvertence or neglect, very little to do with the unconsidered actions and utterances and the so-called 'irrational'

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conduct which constitute, perhaps, the larger part of human doing and speaking. But I must make clear that this is not the case, and that the suspicion that what I have said suffers from a so-called 'intellectualist' disposition is misplaced.

What I have called the postulates of conduct—reflective consciousness, understanding, deliberation, choice governed by the compunctions of practices, etc.—are not 'goings-on' which may or may not precede actions or utterances and which are either consciously engaged in or are absent; they are the conditions of conduct. And if human conduct is said to postulate reflective consciousness it does not follow that what is done or said must be done or said reflectively or self-consciously in order to qualify as conduct. To say, for example, that a self-conscious agent is the condition of imputing moral conduct is not to identify moral conduct with an agent acting in the consciousness of doing right or wrong. The point of this specification of conduct is not to distinguish notably reflected or calculated conduct from 'spontaneous', relatively unreflected, or habitual conduct, nor is it designed to exclude so-called 'irrational' conduct; it is designed to distinguish human conduct, wise or stupid, fanciful or clearly imagined, controlled or at the mercy of emotion, calculated or relatively unconsidered, from 'behaviour'; that is, from a genetic, a psychological, or a so-called 'social' process.

The agent in conduct, then, may diagnose his situation with care, or he may resort to a familiar formula; but whatever he does, it is an understood (or misunderstood) situation. He may think discursively about what he shall do, or he may do the first thing that comes into his head; but whatever it is, it is an intelligent response. And where conduct is habitual or utterance is instant exclamation and when a practice is subscribed to 'without thinking', this facility of response has had to be learned. And since the understanding exercised by an agent in conduct is not itself a theoretical understanding of conduct (it is exhibited in the performance of actions, not in the formulation of theorems), it may itself be recognized as a distinguishable postulate of conduct, and it falls to the theorist of conduct to consider its character. It is, of course, akin to the Aristotelian *phronesis*; but whereas the *aisthesis* of the *phronimos* was, primarily, his understanding of how to act rightly (his *sophronein*), I am concerned with the understanding implicit both in acting and in acting rightly.

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I may be brief because I have already considered this topic incidentally. If (as I think is indisputable) the understanding exercised by the agent in conduct is not an understanding of conduct in terms of its postulates and is, therefore, an understanding in terms of characteristics, it does not follow that it cannot recognize general propositions or principles of conduct. It means only that these principles are theorems which denote relations between characteristics and between identities recognized as compositions of characteristics and not the postulates of conduct. And indeed, self-disclosure in actions is difficult to imagine in the absence of what may be called moral and prudential lore; that is, general moral principles and general propositions about the likely meanings and outcomes of actions in terms of which situations may be specified as 'cases' and expectations entertained, although the greater the generality of these principles or maxims the less valuable they will be in conduct. Moreover, an agent (if he has the opportunity) may scrutinize his circumstances for himself and he may identify them and possible responses to them in terms of what he believes to be exact and reliable general theorems. In short, we may suppose there to be available to an agent a store of well-attested propositions purporting to be general principles of conduct, and by no means worthless. Nevertheless, what is certain is that the understanding exercised by the agent in conduct cannot be an *ad hoc* mobilization of his knowledge of these theorems of moral and prudential lore enlisted to tell him what to do, because they are incapable of any such utterance. These theorems cannot themselves be performed, and acting cannot be 'implementing' or 'applying' them to contingent situations because they are unable to specify actions. What the agent needs to know (if it has anything to do with such theorems) is how to *illustrate* them in actions, and they do not themselves provide directions about how this may be done. His understanding is his reflected-upon experience of transactions *inter homines* continuously available to him in his ability to identify and to read his actual circumstances and to respond to them in actions which he knows how to perform because they are characteristic of himself. Perhaps, in notably novel circumstances or in a situation of unusual obscurity, when persistent doubt about what to want or what to do has lost an agent his way, he may decide to fix his position by taking his bearings upon a general principle of conduct or a theorem of

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prudential lore, but he cannot engage in this operation until he has chosen his principle and there is no principle to tell him how to do this; and since all such principles are equivocal, it will provide him neither with a reason for acting nor with a response to his situation.[1] Moral and prudential principles may indirectly illuminate the theatre of conduct, but they can neither direct nor 'justify' an adventure of doing.

Further, all conduct is performance related to practices (and in particular to a moral practice) which have to be learned. But it is only in fantasy that a practice appears as a composition of rules claiming obedience which to learn is to acquire a familiarity with injunctive propositions and to understand is to know one's way about a rule-book. For an agent in conduct a practice is an instrument to be played upon, and to do this he must have the understanding of a performer. It is a language, at once responsive to and critical of his wants and aspirations, in which he discloses and enacts himself and upon which his performances may leave a deep, but never indelible, impression. And the understanding this entails is not that of knowing the rules but of knowing how to speak it; that is, knowing how to use its resources in order to respond to a situation in an action or an utterance which, in using this language, acknowledges its authority or utility.

III

1. Hitherto, I have been concerned, in the main, with the identity 'human conduct' and with the engagement of theorizing it; that is, with understanding an ideal character in terms of its postulates. It remains now to consider the engagement to understand a substantive performance. And by this I do not mean the limited understanding of an action or an utterance required in order to respond to it, about which I have said something already. Nor do I mean that exiguous understanding in which a performance may be recognized to have been likely or may be forecast as being likely. I mean the engagement to theorize an already identified action or utterance in terms of its postulates. What sort of investigation is it

[1] For example, the maxim of the Cardinal de Retz that 'what is absolutely necessary can never be dangerous' is not unusable; but since 'necessity' in conduct is always a matter of surmise, it can only be *used*, not applied.

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in which we may come to understand a 'going-on' recognized as a human performance?[1]

It may be thought odd that, having come to know our way about the identity 'human conduct' in terms of its postulates, we are not already (and on that account) equipped to understand a substantive performance. If, for example, a mechanical identity is abstracted from all that may be going on, we need no more than the theorems of the science of mechanics in order to understand it; these theorems are the conditions of this identity and they suffice to make it conditionally intelligible. Why then, having command over the theorems which compose the ideal character 'human conduct', should we lack the equipment required to understand a 'going-on' identified, in the terms of this ideal character, as a performance? But, as the reader will be already aware, there is no puzzle here.

A mechanical identity is intelligible in terms of the theorems of a science of mechanics because they purport to display the conditions which allow it to be understood as an *example* of the operation of 'laws' specifying a process (whether these 'laws' are probable, statistical, or otherwise determinate does not matter); or, which is the same thing, because the identity is understood *not* to be itself an exhibition of intelligence. The science both identifies and elucidates the 'going-on'. But a human performance is an exhibition of intelligence and consequently the theorems which compose the ideal character 'human conduct' identify but cannot elucidate what is going on. They provide the terms of the questions to be asked about a performance in order to understand it, but they cannot provide the answers. The action or utterance in which an agent responds to his situation (*A*'s speech in a court of law, or *B*'s resolve to emigrate to Australia) is an *illustration* (not an example) of 'human conduct', and understanding it calls for an investigation of the conditions of this particular performance.

2. A performance is an agent disclosing and enacting himself in responding to his understood situation by choosing what he shall do or say. There is, as we know, more to it than this, but thus far we may assume that to understand a substantive performance is to understand a substantive performer; and this is where I shall begin.

[1] What I have to say on this topic of course applies *pari passu* to practices.

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Since he falls within the terms of the identity 'agent', we know the performer to be a reflective consciousness; he is capable of error and misunderstanding because he is compact of understandings. He is what he understands himself to be and the world is what he understands it to be. Consequently, he is not what is called a 'genetic' identity which may be diseased but is incapable of error. The conditions in terms of which a performance may become intelligible are not those investigated in a science of human biology: an inspection of the chromosomes of a performer is categorially irrelevant to the understanding of his actions. Further, an agent is not a 'psychological' identity: he is not to be understood in terms of a science of psychology recognized as an inquiry into processes of feeling and thinking.

An agent, then, is a 'character' composed of substantive beliefs, affections, understandings, wants, etc.; that is, exhibitions of intelligence. And the contention we must consider first is that he and his performances are to be understood by relating them to an ideal character, called 'human nature', recognized as an organization of emotional and intellectual dispositions, propensities, inclinations, aptitudes, traits, tendencies, 'humors', demeanours, proclivities, etc.: the contention that to understand an agent and his action is to theorize them in these terms.

Sustained reflection upon 'human nature' understood in this manner has generated a vocabulary of ideas in which to describe human conduct and theorems in terms of which to interpret it. The components of this ideal character have been distinguished with tireless care and their interrelations have been investigated as systematically as may be. Within it, special characters have been discerned, such as 'men', 'women', and 'the young', purporting to be particular organizations of dispositions; and it has been differentiated in terms of ideal characters each representing a single dominant demeanour: the Miser, the 'Stoic', the Magnanimous, the Treacherous, the Secretive, the Ambitious Man. The virtue of this understanding of 'human nature' is to have recognized it, not as a process, but as an organization of dispositional capacities, the outcome of learning and education in which the supposed organic needs, appetites, tensions, etc. of the species are wholly transformed and superseded; that is, to have understood it as a practice to be subscribed to. And on any reading of it, this is one of the great achievements of human self-understanding;

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we call upon it in all our attempts to interpret actions and utterances.

It is, of course, the case that 'human nature' has, alternatively, been understood as a system or process. Thus, for example, Spinoza writes: 'If a man has begun to hate an object of his love, so that love is altogether destroyed, he will, causes being equal, regard it with more hatred than if he had never loved it, and the degree of his hatred will be proportional to the strength of his former love.' Hume observes: 'Suppose that an object concerning which we are doubtful, produces either desire or aversion; it is evident that according as the mind turns itself to one side or to another, it must feel a momentary impression of joy or sorrow.' Bentham formulated what purported to be 'axioms' of human behaviour expressing functional connections between sentiments. And others have held that performances are intelligible only in terms of a 'science of the tendencies of human actions'. The 'humors', the dispositions, the traits which constitute 'human nature', and even the dominant propensities which distinguish special human 'types', have even been recognized as the 'causes' of actions. The dream of a science of 'human nature', a dynamics of human character, has long beckoned those concerned with the theoretical understanding of agents, their actions, and utterances.

But if we put this arithmetic of behaviour on one side (together with the extensions of it which constitute the so-called science of ethology and the extraordinary excursions it has provoked into a theory of good conduct), the reflections of those concerned, not with suppositious 'causes' of performances but with 'human nature' understood as a practice composed of dispositions subscribed to in acting, may be recognized as belonging to a serious engagement to theorize substantive performances. And the question to be considered is: What is the worth of this ideal character, 'human nature', as an instrument for understanding substantive actions?

Understood in terms of this ideal character, an agent is recognized as himself a 'character' (or, to use an expression of Shaftesbury's, a 'self-system') composed of dispositions more or less exactly distinguished; that is, as a particular version of 'human nature' thus understood. This 'human nature' is a practice, and employed as an instrument of understanding it focuses our attention upon an agent in respect of being a practitioner; that is, in

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respect of being a subscriber to 'human nature'. He is an identity composed of aptitudes. But, although it may be said that an agent's actions and utterances are necessarily conditional upon his dispositional capacities, understanding him in these terms does not carry us far in the direction of a theoretical understanding of any of his substantive performances. Indeed, if nothing more or other than this is recognized, and even if the dispositional properties which compose the ideal character 'human nature' were much more closely specifiable than they are,[1] an action as a chosen response to an understood contingent situation related to an imagined and wished-for outcome and performed in consideration of understood compunctions has altogether escaped attention.

An agent's dispositional capacities, his skill, and the range and quality of the aptitudes which he brings to self-disclosure in action cannot themselves account for his choice to do *this* rather than *that*; and an utterance cannot be understood when it is considered only in terms of its subscription to the language in which it is spoken. Nor can the recognition of the moral disposition of an agent supply an understanding of what he has said and done. There is no dependent relation between a performance as an agent meaning to achieve an imagined and wished-for satisfaction and even the sentiments in which it is performed, much less the disposition exhibited in the sentiments. It is only the meanness of an action which may become intelligible when an agent is recognized to have a mean disposition; and no action is merely mean. No doubt *la donna è mobile*: but it is not the substantive actions and utterance of a woman, it is only their fickleness which is illumined by this dispositional theorem. What distinguishes *this* action from the million others which may be performed ficklely remains unrecognized. To understand an action or an utterance as an illustration of the interplay of 'love' and 'hate' is hardly to be counted as an understanding of what is said or done. In short, 'human nature', even when it is recognized as an ideal character

[1] Since 'human nature' here is a practice, its dispositional components are imperfectly specifiable and subscription to them is similarly indeterminate, allowing incalculable (but not necessarily unrecognizable) gradations of conformity and disconformity. In this respect they are to be distinguished from the propensities of the components of a process, which are expressed in the 'laws' (probable or determinate) of their functional relationships. Different pieces of glass may have different degrees of brittleness, but brittleness (unlike kindness or miserliness), when used as an instrument for understanding what is going on, is exactly specifiable as a coefficient of elasticity.

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composed of dispositional capacities, is an inadequate instrument for understanding the substantive performances of agents.

The second purported understanding of an agent and his actions which calls for consideration is that in which the instrument of understanding is an ideal character specified as a 'social' identity. And the contention to be considered is that the terms in which substantive actions are to be made intelligible are theorems concerning the characters of agents in respect of their 'social being' or 'social circumstances'.

The components of this ideal 'social' character are not merely attitudes, dispositions, or capacities, but are substantive beliefs, preferences, interests, wants, etc.; what distinguishes it as an instrument of understanding is that these are understood to be expressions of 'social circumstances'. Within this somewhat loose theoretical identity, limited ideal characters of this kind are to be discerned, each representing a dominant 'social circumstance' held to be significant in understanding substantive actions: middle-class, unemployed, belongs to a power élite, deprived, immigrant, orphaned, had a grammar-school education, inhabitant of a high-rent low-income area, elderly, urban slum-dweller, peasant, 'underprivileged', etc. Thus, an agent is recognized to be what he is in respect of his 'social being' and his substantive actions and utterances are to be made intelligible as choices to do or to say *this* rather than *that* in relation to conditions specified as 'social circumstances'.

As an apparatus for the theoretical understanding of substantive actions this ideal character is a somewhat ramshackle construction. Appropriately enough, it is less often used as an instrument of understanding than as a handy formula in which to recommend, to excuse, or to denigrate what is said and done. And the scrappy collection of so-called 'variables' with which this formula is commonly set up for use makes the operation look like a parody without an original. But this enterprise may be recognized as a plausible attempt to understand the substantive actions of agents when two conditions are satisfied. First, it must be exclusively concerned with the understanding of *conduct*; that is, it must avoid the absurdity of pretending that these 'social circumstances' are also the conditions in terms of which the engagement and the conclusions of the theorist of conduct are to be understood. 'Social being' must be recognized as *one* of the engagements of

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reflective consciousness and not as itself 'the determinant of reflective consciousness'. And secondly, it must recognize 'social being' as a practice; that is, as an intelligent engagement concerned with responding to understood situations. Where these two conditions are satisfied this proposal for the theoretical understanding of performances is distinguished from the project of constructing a 'science of society' for this purpose, which it would be otiose to mention here were it not that the two are often confused.

This 'science of society' is the counterpart of the 'science of human nature'. In it a 'society' is understood as a process, or structure, or an ecology; that is, as an unintelligent 'going-on', like a genetic process, a chemical structure, or a mechanical system. The components of this process are not agents performing actions; they are birth-rates, age groups, income brackets, intelligence quotients, life-styles, evolving 'states of societies', environmental pressures, average mental ages, distributions in space and time, numbers of 'graduates', patterns of child-bearing or of expenditure, systems of education, statistics concerning disease, poverty, employment, etc. And the enterprise is to make these identities more intelligible in terms of theorems displaying their functional interdependencies or causal relationships or of their cyclical or secular change. It is not an impossible undertaking. But it has little to do with human conduct and nothing at all to do with the performances of assignable agents. Whatever an environmental pressure, a behaviour-style, or the distribution of gas-cookers may be said to be correlated with or to cause (a rise in the suicide rate? a fall in the use of detergents?) these are not terms in which the choice of an agent to do or to say *this* rather than *that* in response to a contingent situation and in an adventure to procure an imagined and wished-for satisfaction may be understood. It is only in a categorial confusion that this enterprise could be made to appear to yield an understanding of the substantive actions and utterances of an agent. And that this confusion is now commonplace is a regrettable dis-service to a scientific undertaking in any case not notable for its integrity and all too eager to be seduced.

But even when this science of 'social processes' is put on one side, and the 'social being' of an agent is properly understood as his self-recognition in respect of being related to others in terms of 'social circumstances' recognized as a practice and not as a process,

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the contention that these are the terms in which his substantive performances are to be theorized remains indistinct. There is no such general relationship of agents corresponding to the word 'social'; 'social being', unqualified, does not stand for any significant self-recognition and the expression 'social circumstances' does not denote any identifiable conditions of association to which an agent's performances might be related in order to be understood. 'Social being' is multiple and 'social circumstances' are multifarious. In terms of which of an agent's many, mixed, equivocal, changing, often divergent, and sometimes conflicting understandings of himself in relation to others, or to what contingent combination of such self-recognitions, or to what self-recognition of allegedly superior circumstantial importance, is his choice to perform *this* and not another action to be theorized?

The contention that the substantive performance of an agent is to be theorized in terms of his 'social being' makes sense, then, only when 'social being' is understood as his self-recognition in being related to others in some particular respect and when 'social circumstances' is understood as relationship in terms of some specified conditions. But every such relationship is either association in the acknowledgement of the conditions of what I have called a 'practice' or it is association in the pursuit of a chosen common purpose or in the promotion of a chosen common interest. And although all conduct entails participation in a practice or practices and some is concerned with a choice to be associated in pursuit of a common interest, no action or utterance is what it is in terms of its subscription to a practice or of its aim to achieve a common purpose, and no agent in any of his actions is merely a practitioner or a partner in a common enterprise. Thus, to understand the action or utterance of an agent in these terms falls short of a theoretical understanding, not because it is a conditional understanding (all understandings are conditional) but because the conditions it invokes are such as to exclude even the recognition of a substantive performance.

Since the common fault I have found with these two proposals[1] for the theoretical understanding of performances is that they

[1] After what I have said about 'psychology' in the first part of this essay it is unnecessary for me, here, to consider the contention that substantive actions and utterances are to be theorized in terms of the so-called 'psychology' of the agents concerned.

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offer no more than actions and utterances made intelligible in relation to practices, it is proper to pause briefly and to reconsider this offer in more general terms. That this is a recognizable and an important way of understanding human actions goes without saying. And it is enlightening enough for it to be no surprise that so much of the concern with the theoretical understanding of actions and utterances should have had this as its focus of attention. It is the central concern in anthropological and sociological inquiry, an understanding of works of literature and of art is often sought in these terms, and it was the promise of such achievements of understanding which distinguished *Geistesgeschichte* and set it upon its adventurous path.

In all such engagements, what is sought, in the first place, is an identifiable practice: a morality, a religion, an art, a skill, a genre, a style, a *coutume*, a 'productive' practice, an institution, a cult, a ceremony, a ritual, a 'class', a regime, a profession, an 'economy', a *ménage*, or even a 'society' or a 'civilization', recognized as a procedure (not a process) and understood as an organization of recognitions, considerations, dispositions, compunctions, rules, etc.[1] This identity (often spoken of as a 'structure') is a practice abstracted from all that may be going on, sketched, delineated, fitted together, explored, and finally understood as an articulated composition of characteristics. And what emerges from this engagement is, so to say, a map; identified features placed in relation to one another.[2]

But turned back upon the actions and utterances of assignable agents, this map is not only a practice identified; it offers itself as an instrument of understanding. And performances may be theorized by being read in respect of their places upon this map or by being assigned a place upon it. What is revealed in such an understanding is the character of an action in respect of the reflection of a practice it throws back; that is, in terms of its

[1] e.g. the English Constitution (Bagehot), Oriental despotism, le phénomène bureaucratique, a political party, Renaissance Man, a kinship 'system', Romanticism, the Christianity of Port-Royal, baroque architecture, feudalism, 'the Enlightenment', chivalry, *Manchestertums*, 'the nineties', the *devotio moderna* of the fifteenth century Netherlands, 'tragedy', medieval kingship, 'bourgeois society', central banking, 'realism' in art, 'the proletariat'.

[2] Or, maybe, an account of changes which have taken place on such a map. This was Maitland's conception of 'constitutional history'—'a history, not of parties, but of institutions, not of struggles, but of results'. *Constitutional History of England*, p. 537.

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'conventionality'. Thus, a performance is first identified and then theorized in relation to a practice understood as a more or less steady (or an evolving) composition of characteristics.

That this engagement makes a considerable call upon the powers of a theorist cannot be doubted. Such an identification, even in its simpler forms (e.g. understanding an utterance as a 'slander', or recognizing a building in terms of its architectural 'style'), is concerned with fine gradations of conformity and disconformity; and only a brash theorist would think he could distinguish a performance in respect of its place upon the dispositional map of 'human nature' or 'Christian conduct' by rule of thumb. And its yield of understanding, when judiciously undertaken, is not negligible. But its limits are narrow.

Practices are not stable compositions of easily recognized characteristics which they are here assumed to be. Even the few which have been expressly designed are not merely current 'patterns of conduct' of acknowledged utility or propriety; they are footprints left behind by agents responding to their emergent situations, footprints which are only somewhat less evanescent than the transactions in which they emerged. And further, what distinguishes them from processes is their character as compositions of beliefs and sentiments which, in turn, are not merely the recognizable conditions in terms of which a practice may become intelligible, but (like performances) are themselves historic occurrences whose intelligibility is contextual. But, however a practice is understood (as a current, moral or useful procedure or as an emanation of performances), no substantive action or utterance is to be understood merely in terms of theorems which specify its subscription or non-subscription to it.[1] We must seek elsewhere for the kind of inquiry in which substantive performances may be theorized.

[1] The consideration I am concerned with may be illustrated as follows. Anyone who listened to the late Professor Hugh Last's account of the legal and constitutional changes in which the Roman Principate emerged under Octavius may properly be said to have been offered a profoundly explored understanding of the situation in terms of the modification of a practice. In *The Roman Revolution*, on the other hand, Sir Ronald Syme displays the situation, not in terms of the modification of a practice but in terms of the contingent transactions of assignable agents, each responding to his understood circumstances by choosing to do or to say *this* rather than *that* in relation to imagined and wished-for outcomes and in individual subscriptions to a multiplicity of practices.

And the short-coming (it is not, of course, error) of a historian who laces his

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3. Understood in terms of the ideal character 'human conduct', a substantive performance is identified as an intelligent 'going-on' composed of related circumstantial occurrences: an assignable agent engaged in self-disclosure and self-enactment, the understood emergent situation in which he recognizes himself to be, the beliefs, sentiments, understandings, and imaginings in terms of which he deliberates and chooses his response to it, the conditions he acknowledges in making this choice, the action he performs, and the reply it receives. To theorize it is to accept it in its character as a manifold of related occurrences, to discern the identity it constitutes and thus to understand it without explaining it away. The relationship concerned is that of contingency; the identity it constitutes is an *eventum*.

To theorize contingency is a large and difficult enterprise and I shall limit myself to an attempt to identify it in terms of its characteristics. Like the expressions 'functional', 'probable', 'causal', etc., 'contingent' denotes a kind of relationship which specifies the character of what is related. Two claims are made on its behalf. First, it is said to be a relationship of dependence or interdependence such that the recognition of it enhances the intelligibility of the 'goings-on' concerned—that is to say, it purports to be a significant relationship and neither a merely factual juxtaposition of 'goings-on' in terms of 'when' or 'where' nor a mere correlation of 'goings-on' in terms of likenesses or arbitrarily chosen common characteristics. And in default of this quality it would surely be a worthless instrument of understanding. But secondly, contingency purports to be distinguished from all other kinds of significant relationship: from the sort of interdependence which the components of a teleological, an evolutionary, a mechanical, an organic, or other such process or system enjoy in virtue of the regularities which constitute the process or the structure which constitutes the system; from a relation of necessity; from a relation of cause and consequence; from functional dependence; from a relation of implication or entailment (like, 'ought' implies 'can', or having swum the English Channel entails knowing how to swim); and it is distinguished also from analogical relationship. And here, again, without this distinction it

narrative with so-called 'moral' judgements is not on account of his concern to understand performances in terms of a *moral* practice, but on account of his concern to understand performances in terms of a practice of any sort.

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is surely an undistinguishable instrument of understanding. But the difficulty of reconciling these two claims has made it appear that contingent relationship should either be dismissed as a delusion or even a self-contradiction, or place found for it in the interstices of causal or functional process or system.

Thus, when contingency is said to be fortuitous or merely accidental relationship, it is being distinguished from systematic relationship but at the cost of its rationality: it is being denied the character of a significant relationship. The somewhat vague ideas of chance and accident may be recognized to correspond to something in common experience (where they are partnered by such notions as 'mishap' and 'ill fortune') and they may be useful in diagnosing situations in order to respond to them, but these expressions may belong to a vocabulary of theoretical understanding only when *fortuna* is identified as itself a process. And when it is identified as a somewhat uneven and loosely articulated process, leaving room for manœuvre and allowing, for example, the sort of relationship a tethered goat has to its stake, 'contingency' may seem an appropriate expression for the relations of its components. But a somewhat loosely articulated process or system, and particularly one in which the 'play' is understood in terms of statistical probabilities, is not on that account less of a process or system, and it has no room for relationships other than those of a process or system.

Further, place has been sought for contingency by recognizing it as the relation between that which, in the characters of its components, a system or process itself necessarily ignores, namely their particularity or (as it is sometimes said) their uniqueness. Contingency, it is said, denotes the relations of particulars as such. But this is only a somewhat muddled way of disposing of contingent relations altogether. For, there can be no relationship save between identities, and all identities are unities of particularity and genericity and are related, if at all, in terms of their content or characters.

Again, contingency has been recognized as the relation of abnormal to normal in a system or process: the behaviour of comets in a system of solar mechanics or disease and decay in a biological organism. But there is nothing distinctive in such a relationship: pathology is not concerned with suppositious identities and relations which fall outside or which call for a

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modification of the physiological functional dependencies in terms of which the behaviour of organisms is understood.

And lastly, it has been said (after Aristotle) that where two or more independent teleological or other processes are related to one another the relationship is unlike that which constitutes the processes themselves and may be recognized to be contingent. Or, more narrowly, contingency has been identified as the relationship of 'goings-on' which, belonging to independent teleological or other processes, occur at the point where such independent processes intersect. But there is nothing whatever in such a crossing-point which cannot be understood in terms of the processes concerned and thus calls for another kind of relationship in order to make it intelligible. If this situation demands recognition, it suggests that there had been some misunderstanding in thinking that the processes concerned were indeed independent of one another rather than the need to invoke a special, contingent, relationship in order to understand it.

Where, then, there is understood to be process or its equivalent there is no room for a relationship between 'goings-on' other than that of the functional or causal dependencies of the components of a process: the project of finding a place for contingent relations in the interstices of process or system is otiose. But where process or its equivalent is understood to be absent, and where the 'going-on' is identified as an exhibition of intelligence and therefore as an individual occurrence which is in itself what it is for itself, there is not only room for the kind of relationship which corresponds to the claims of contingency, but such a relationship is the condition of the intelligibility of such 'goings-on'. An occurrence which presents itself as a component of a process or system denies its own character, and one which presents itself in isolation is merely a recognizable waiting to be understood.

Contingency, then, is a relationship between 'goings-on' identified as individual occurrences exhibiting intelligence (human actions and utterances) in which they are understood in the only way in which their formal character as such individual occurrences allows them to be understood, namely, in terms of their dependent connections with other such occurrences.

The most exiguous form of such a relationship may be called 'incidental'. Here, a falling together of such occurrences is understood to intimate a dependent relationship and recognition of it

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thus to enhance the intelligibility of the occurrences, not because there is any assigned reason why they should have fallen together, nor because there is any noticeable 'fit', but merely because having fallen together they do not repulse one another. They are recognized to hold together rather than identified as belonging together. And this holding together (however tenuous it may be) is recognized in terms of their substantive characters (or some feature of them) and not on account of any external containing or conjoining circumstance.

A contingent relationship in the full sense, however, is a sequential relationship of intelligent individual occurrences where what comes after is recognized to be conditional upon what went before, not merely because before and after cannot here be reversed, nor (of course) because what went before is recognized as a causal condition or because they are recognized to be functionally related, but because they 'touch' and in touching identify themselves as belonging together and as composing an intelligible continuity of conditionally dependent occurrences.

But what, here, is meant by 'touch'? Formally, it means the absence of interval and therefore the absence of a mediator between occurrences which is not itself an occurrence, e.g. a 'law' or a 'function'. The relationship is direct and is in terms of the substantive characters of the occurrences alleged to be related. And it means, also, that the relationship in terms of which intelligibility is being sought is that of each occurrence to the one before and, thus, that every antecedent is itself a subsequent and every sequel is an antecedent. In contingent relationship there is no teleology; but neither is there a 'first' or original occurrence in terms of which all subsequent occurrences may be understood. There is only an unbroken continuity of occurrences, each a unity of particularity and genericity.

Substantially, however, this relationship of 'touching' itself specifies the identities related. In it, what went before, in respect of its going before, is understood (so to say) as a prognosis, an adventure, a bid, an overture, an invitation, or a solicitation; that is, as an action which calls for a response, which perhaps even knows how it would be responded to but, since there are many possible alternative responses, is necessarily ignorant of the exact response it will receive. And what came after, in respect of its coming after, is identified as an acknowledgement, a response, a

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complement to what went before. Thus, a sequence of contingently related occurrences is not a process in which there is room to manœuvre; it is wholly composed of manœuvrings in touch with one another. The continuity is not merely the absence of interval; it is the congruity of what came after with what went before. And the intelligibility lies in the recognition of what came after as acknowledging, taking up, and in some manner responding to the antecedent, and of what went before as in some respect conducive of what came after. In brief, understanding in terms of contingent relations is contextual: what has to be understood and the terms in which it is understood are not two different kinds of identities (like a 'law' and examples of its operation), they are individual occurrences made to elucidate one another in an investigation of their evidential relationships.

To understand a substantive performance in which an agent discloses and enacts himself is to put it into a story in which it is recognized to be an occurrence contingently related to other occurrences. Such a story does not open with the unconditional, 'In the beginning . . .' but with a conditional, 'Once upon a time . . .'. And it has no unconditional conclusion; its end is the beginning of another story. This story has no over-all meaning; it is occurrences understood in terms of the meanings they acquire from their evidential contingent relationships. And the teller of such a story has no message for those who listen other than the intelligibility with which he purports to have endowed the occurrences concerned by putting them into a story. It is, of course, true that a story may be used to point a moral, to serve as an authority for future conduct, to teach its hearers how to perform actions likely to have wished-for outcomes, to assure them of a golden destiny, or to reconcile them to an unhappy fate; and it has been well said that all sorrows may be redeemed by putting them into a story. But to do this is to give up the story-teller's concern with the topical and the transitory and to endow occurrences with a potency they cannot have without surrendering their characters as occurrences. It is not to tell a story but to construct a myth.

A substantive action or utterance identified in terms of the ideal character 'human conduct' is, then, an individual occurrence; and the inquiry in which it may be theorized is concerned to understand it in terms of its conditions. These conditions are other

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such occurrences to which it is connected in a contingent relationship. What has to be investigated is the evidential detail of a continuity of contingently related occurrences in which *this* performance is the current focus of the theorist's attention. And the theorem thrown up in this investigation is a narrative in which the performance is understood neither as a fortuitous happening, nor as a necessary consequence, but as an intelligible event.

Like all other adventures in theorizing, this engagement to understand a substantive performance in terms of its contingent conditions is an engagement to abate mystery rather than to achieve a suppositious definitive understanding. And here, as elsewhere, every achievement is a theorem which not only expresses a relationship (or web of relationships) between occurrences, but which, in doing so, specifies more exactly recognized but not yet understood occurrences by understanding them in terms of their conditions. Theorizing, here, is concerned to expose the contingently related beliefs, sentiments, understandings, and compunctions of an agent, and to discern the congruity of his action with his diagnosis of his situation. It is concerned with the practices subscribed to, with the relation of the action performed to the responses it received, and with the reverberations set up in the transaction. It may be hindered, or even frustrated, by the absence of evidence; the scent may be lost by inadvertence; it may founder in fantasy. But it is an engagement of understanding. The theorist is not concerned to re-enact in his own imagination the performance of an agent or to rehearse it in the terms in which it was performed. His engagement is to enlist whatever evidence he can find in order to take hold of a performance and to endow it with a conditional intelligibility of which he is the author. What he must bring to this understanding is a deep respect for the individual action, patience in exploring its connections, an exact appreciation of its provenance and circumstances, an eye for shades of difference between plausible likenesses, an ear for echoes and the imagination, not to conjecture what was likely, but to devise, recognize, entertain, and criticize a variety of contingent relationships, each sustained by a reading of the evidence. And it is an engagement of theoretical understanding: the theorist here, is not concerned to understand the performance merely in order to respond to it. He is not one of the parties in the transaction he is theorizing.

The theoretical understanding of a substantive action or utter-

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ance is, then, in principle, a 'historical' understanding. Theorizing a performance is attending to an occurrence and understanding it as an agent (himself a contingent continuity of beliefs) embarked upon an adventure of self-disclosure and self-enactment in relation to and in terms of his understood contingent circumstances. Its concern is with the actions and utterances of agents in respect of the beliefs and sentiments in which they were performed and the imagined and wished-for satisfactions they sought, with the transactions these actions and utterances circumstantially converged to compose and with the reverberations they contingently set going. Such a convergence of occurrences is an *eventum*; not a merely recorded occurrence, not itself an assignable action or an assignable response to an action, but the contingent outcome of the choices and encounters of assignable agents and understood as this outcome.

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II On the Civil Condition

> In the night of thick darkness enveloping
> ancient times there shines the eternal
> never-failing truth beyond all doubt:
> that the civil condition is certainly a
> human invention and that its principles
> are therefore those of human intelligences.
> Vico: *La scienza nuova*, § 331.

1. In this essay I shall attempt to identify and go some distance in theorizing what I shall call the civil condition or civil relationship. This is an ideal character. The civil condition, as I shall use the expression, is not an association of ascertainable persons identifiable in respect of a place and a time, by the signs it uses to recognize itself, or specifiable in terms of common beliefs or of its own rules and arrangements. It is a certain mode of association, one among others. It necessarily excludes relationships contradictory of itself (as friendship excludes enmity); but while it is distinct from relationships contrary to itself, it does not exclude persons who enjoy those relationships. I shall call it the relationship of civility.

To have chosen the words 'civil' and 'civility' to stand for the condition and the relationship I am concerned with may seem a trifle old-fashioned: it is some time since they were commonly used to denote a specific condition and relationship. But their virtue for me as a focus of attention is that they are not yet, in this respect, beyond recall, and that the condition and relationship they plausibly distinguish are neither quite so narrow as those pointed to in the words 'legal' and 'legally', nor so indiscriminate as those now commonly (but I think unfortunately) understood by the words 'political' and 'politically'. But it is, of course, closely connected with 'law' and 'politics'.

Further, I propose (where it is appropriate) to use the word *civitas* for this ideal condition, *cives* for the *personae* related in this manner, *lex* for the terms of their relationships, and *respublica* for the comprehensive conditions of association. And I shall do this because it is convenient to have brief expressions for these ideal

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conditions and because these, being somewhat archaic, are more easily detached from contingent circumstances and less likely than their current counterparts ('state', 'citizen', 'law', 'public concern') to be mistaken for the characteristics of historic and equivocal associations. I shall have to make do with dangerously ambiguous expressions for the other important postulates of this condition: 'justice', 'adjudicating', 'ruling', 'subject', 'lordship', 'policy', and 'politics'.

This ideal character is among the instruments which may be used in seeking to understand complex, ambiguous, historic human associations, and I propose to use it in a later essay for this purpose in respect of the associations commonly called modern European States; but here I am concerned not to use it but to understand it in terms of its postulates. And, of course, it is ideal not in the sense of being a wished-for perfect condition of things but in being abstracted from the contingencies and ambiguities of actual goings-on in the world.

Needless to say, I am not the first to embark on this intellectual adventure. But of the many earlier writers who have set out upon it, only a few have not, sooner or later, abandoned it in favour of excursions concerned with such considerations as the contingent circumstances favourable to its appearance upon the scene, and these excursions have captured most of the attention of their readers. And others, like many of the theorists of the *Rechtsstaat*, have too readily surrendered to the ambiguities of historic conditions. Some writers, however, have remained relatively undistracted by extraneous considerations, and the most memorable of these are Aristotle, Hobbes, and Hegel. It is from these and from some notable writers on jurisprudence that we have most to learn.

The civil condition or relationship, like any other ideal character, is elicited from all that may be going on in an engagement of attending, noticing, abstracting, distinguishing, comparing, considering and reconsidering, inferring, concluding, and composing; an engagement provoked by a wish to identify. It first becomes recognizable as an ideal composition of characteristics; that is, in terms of features which are themselves compositions of characteristics. And when it is extricated from the contingencies of local style, it may be recognized to be both like and unlike other relationships similarly understood.

Thus, the four most important distinguishing features upon

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which Aristotle fastened his attention were that it is a relationship of human beings, that it is a relationship of equals, that it is a 'constituted' condition, and that it is a self-sufficient relationship. These, here, are no more than marks of recognition. They suggest that we should look for this relationship among men and not, for example, among ants, bees, beavers or other reputedly associative creatures; that it is not a functional or an hierarchical relationship but one in which the two sides of the equation (so to say) are the same and bear the same name (*polites*); that we may expect to find evidence of this condition not only in the conduct of the *personae* thus related but also in their common recognition of some constituting instrument (*politeia*); and that the civil condition has the characteristic of being always self-complete in the sense of having no extrinsic substantive purpose (*autarkeia*).[1] Further, he found this relationship (in terms of its characteristics) to be unlike 'tribal', 'family', or 'household' relationship and to be unlike what he called 'the fellowship of the bread-bin', an 'economy'. And when he was considering the similarity of this to other 'better-known' relationships, he remarked that it is like 'friendship' but diluted or 'watery', and that it has some features in common with marital relationship when this is abstracted from 'household' relationship.[2]

In later times and in somewhat different circumstances the civil condition has been identified, in terms of its features, by distinguishing it from religious (or ecclesiastical) relationship, and from

[1] In his treatment of this feature in Book I of the *Politics*, Aristotle clearly considers it to be a mark of great importance. That it has escaped the attention it deserves is, perhaps, because in Book VII it becomes obscured by the trivialities of trade.

[2] These are among the marks of recognition which Aristotle calls attention to when he is considering the features of the ideal condition for which he appropriates the name *polis*, corresponding to the condition I have called *civitas*. This consideration of features is, of course, preliminary to his investigation of *polis* in terms of its postulates. He also uses the word *polis* (as we commonly use the word 'state') for named, complex, changing, ambiguous associations such as Athens or Sparta, contingent goings-on from which the ideal relationship may perhaps be abstracted but none of them unqualified examples or illustrations of it. But this does not concern us here except to notice the difference and to guard against the possible confusion.

It has been remarked (W.L. Newman: *The Politics of Aristotle*, i, 151) that the same doubleness appears in Aristotle's treatment of slavery: part of the investigation is concerned with an ideal character ('natural' slavery) and part with the miscellaneous historic practice. Aristotle, it may be supposed, knew what he was doing, but readers of the *Politics* have often passed over the distinction unnoticed.

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military relationship. More recently (but rather too hastily) the distinction between civil and moral relationship has been thought to be specially revealing. There are current expressions, such as 'civil rights' and 'civil war', which point (often a trifle uncertainly) to what are thought to be important distinctions. And the distinction between 'civil' and 'natural' (momentously difficult for Aristotle to make) has been a considerable, though very uncertain, achievement. The distinction between 'civil' and 'criminal' has I think been less illuminating on account of its ambiguity.

Much of this is certainly well observed and all of it testifies to an engagement of imaginative abstraction pursued in often confused and obscure circumstances; Aristotle's achievement in the circumstances of the Greek *polis* of his time was remarkable. And it makes a not negligible contribution to our understanding of the civil condition. That it does not amount to more than a very sketchy delineation of civil relationship in terms of its features and that it recognizes only indistinctly what is perhaps its most significant feature, namely a system of rules, may be a matter for regret and may be recognized as an invitation to improve upon it. But be that how it may, and without denying the worth to him, as a propaedeutic, of a well-articulated characterization of the civil condition in terms of its features, the engagement of the theorist lies elsewhere; it is concerned to understand the civil condition in terms of its postulates.

2. I shall begin with the most general of these conditions; namely, that civil relationship is a relationship of human beings. What the expression 'human being' may mean when it stands for a mark in terms of which the civil condition may be recognized to be present or absent is unavoidably indefinite: who, and in respect of what characteristics, is to be 'counted' a human being, and what degree of divergence will disqualify? And it may remain indefinite without detracting from its worth. It purports to be no more than one among many distinguishing characteristics, itself a composition of charcteristics, and it has served its turn if it has helped to identify.

But when the civil condition is specified as a relationship which postulates human beings, something determinate is being predicated; namely, that it is a relationship to be understood, in the first place, in terms of the ideal character 'human conduct'. What this

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means I have already set out as fully as I am able and need not now rehearse: I shall recall it briefly. Understood in terms of its postulates 'human conduct' is 'free' (that is, intelligent) agents disclosing and enacting themselves by responding to their understood contingent situations in chosen actions and utterances related to imagined and wished-for satisfactions sought in the responses of other such agents, while subscribing to the conditions and compunctions of a multitude of practices and in particular to those of a language of moral understanding and intercourse. A human relationship is not a 'process' made up of functionally or causally related components; it is intelligent relationship enjoyed only in virtue of having been learned and understood or misunderstood.

My first contention in regard to civil association relates, then, to matters I have already argued in detail and it carries understanding the civil condition a considerable distance. *Civitas* is an engagement of human conduct; *cives* are not neurophysiological organisms, genetic characters, psychological egos or components of a 'social process', but 'free' agents whose responses to one another's actions and utterances is one of understanding; and civil association is not organic, evolutionary, teleological, functional, or syndromic relationship but an understood relationship of intelligent agents.

Assuming the civil condition to be 'human conduct' in the sense in which I have used the expression, the task of the theorist is to discern the mode of intelligent relationship it postulates. And by a mode of relationship I mean a categorially distinct manner of being related which, while it may subsist in conjunction with other modes of relationship, cannot be reduced to any other. There are two such modes to be reckoned with.

The first is that intermittent transactional association of reciprocity in which agents, responding to their understood situations, seek the satisfaction of their wants in the responses of one another. This is the substantive engagement in human conduct, suspended only when mere force (*vis*) takes the place of action and response to action: a traveller boarding the boat for Calais, a comedian trying to get a laugh out of his audience, a would-be borrower trying to raise a loan, a punter placing a bet with a bookmaker, a market-gardener planting cabbages, a flute-player on the street corner. It is a relationship of bargainers and from it emerge

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whatever substantive satisfactions are from time to time enjoyed.

Agents thus engaged may give themselves rules of conduct; that is, conditions to be observed while performing the substantive actions of their engagement. The flute-player may determine to take up his station punctually at a certain hour of the day. And besides their substantive transactional relationships such agents will certainly be related to their respondents in the mutual acknowledgement of the rules or uses of some practice or practices subscribed to in varying degrees of skill and fidelity; totally 'art-less' bargaining for the enjoyment of substantive satisfactions is impossible. These practices are compositions of prudential considerations; their rules and uses are mutually understood instruments to promote the transactions they govern. They are (so to say) languages in which engagements of bargaining for the satisfaction of substantive wants are conducted. Thus, for example, a punter and a bookmaker are related to one another in terms of an understood practice designed to promote the transactions in which each seeks a satisfaction for himself. But while these formal or linguistic relationships are utilities which may subsist only between agents engaged in substantive performances and without them such transactions would be difficult if not impossible, they do not themselves constitute the transactions. They are relationships in terms of understood adverbial conditions to be subscribed to in making choices and they neither identify nor entail any particular action. The language of betting does not tell a punter which horse to back or a bookmaker what odds he should offer, and it is these choices which constitute the substantive transaction. Thus, agents as bargainers for the satisfaction of wants, each the performer of substantive actions designed to procure an imagined and wished-for substantive outcome, are related as respondents to the substantive choices and performances of one another. They are related as respondents to the *meaning* of each other's utterances: this flute-player playing this tune to this audience, this hopeful borrower intending to raise this loan on this house to this possible lender, this would-be purchaser of these apples to this seller of apples. Theirs is a reciprocal relationship in which, each seeking a different satisfaction, the parties are appropriately identified in terms of the substantive satisfactions they seek to procure. And I shall not pause to dismiss the notion that these bargainers are, as such, *cives* and that their relationship in

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the reciprocal supply of contingent satisfactions is itself civil association.

But in respect of being seekers and therefore providers of satisfactions, agents may be related in the joint pursuit of some imagined and wished-for common satisfaction. I will call this 'enterprise association', because it is relationship in terms of the pursuit of some common purpose, some substantive condition of things to be jointly procured, or some common interest to be continuously satisfied. It is association not merely concerned with satisfying substantive wants, but in terms of substantive actions and utterances, and consequently it belongs to the same mode of relationship as that in which agents seek the satisfaction of their individual wants in the responses of others.

Agents thus related may be believers in a common faith and concerned or not concerned to propagate it, or they may be partners in a productive undertaking (a bassoon factory); they may be comrades or allies in the promotion of a 'cause', colleagues, expeditionaries, accomplices, or conspirators; they may be joined in belonging to the same profession or in having the same trade; they may enjoy a 'common life' or they may be united merely in having common enemies; they may comprise an army, a 'village community', a sect, a fellowship, a party, a fraternity, a sodality, a *collegium*, or a guild. The ties of this association may be close like those of a corporation; or they may be the looser ties of partnership or alliance. The relationship may be long lasting or soon dissolved. The common purpose may be simple or complex, clearly identified or vaguely imagined; its achievement may be a near or a distant prospect, or no prospect at all, but an interminable engagement in the continuous promotion or protection of an enduring interest. The response sought may be that of others not thus associated (as a productive enterprise seeks buyers or consumers), or it may be an enjoyment of the associates themselves.

This mode of association, of course entails moral relationship, but with that and with any other adverbial or rule-like conditions it may involve we are not now concerned. Our business is with the relationship itself and with the conditions which distinguish and specify it. These are a common substantive purpose and the choice of each of the agents concerned to be related in terms of it. The purpose may be anything recognizable as a substantive condition of things imagined and wished-for as the outcome of human

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activity. That it is a chosen relationship follows from it being association in terms of a common want: two or more agents may be joined in seeking a common satisfaction only in virtue of a choice on the part of each. This choice may be revoked, and if it is revoked the relationship lapses. The association may be dissolved by common consent or it may be destroyed by internal dissension. An agent need not have expressly enrolled himself by a deliberate act, but this joint pursuit of a common purpose entails agents related to one another in the acknowledgement of it as their common purpose and it is a relationship from which an agent may extricate himself by a choice of his own. This mode of association is often, although somewhat hazardously, identified as a 'community of wills', and less questionably as a community of choices.

Pursuing a purpose or promoting an interest is, however, nothing other than responding to continuously emergent situations by deciding to do *this* rather than *that* in the hope or the expectation of procuring an imagined and wished-for outcome connected with that purpose. And enterprise association must, therefore, be agents related to one another in making such decisions or in acknowledging them as their own. But these decisions are only contingently connected with the common purpose or interest concerned; they are not deducible from the choice to be associated in pursuit of it and they cannot be recognized by the associates as their own merely in virtue of that choice. Consequently, enterprise association cannot be relationship merely in terms of a common purpose; it must be in terms of what I shall call the 'management' of its pursuit. And whether this 'management' is performed by all the associates in unanimous or majority decisions, or by a directorate, or by one deputed to manage the affairs of the association, although it may make some difference to the associates' feeling of participation, does not affect its character. It is the engagement to make substantive choices of actions or utterances which are not entailed in the common purpose but which contingently constitute its pursuit: the decision, for example, in which the programme of an orchestra for a particular concert is chosen. An enterprise is a 'policy', and enterprise association is a 'managerial' engagement; it is agents related to one another in the substantive activity of choosing performances contingently connected with a common purpose or interest, or in their acknowledgement of such choices and performances as their own.

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But further, unless the common purpose in enterprise association is pre-eminently transitory, or unless it is believed that its pursuit is likely to be prejudiced by such formality, agents thus related may also be joined in the recognition of the authority of some rules or rule-like arrangements. There may be articles of association, a written-down constitution, a book of rules, rituals of initiation, oaths of loyalty, conditions of membership or resignation; and there may be offices denoting duties and regulations concerned with how they shall be filled. And so on. These rules are not to be confused with the 'managerial' decisions, agreements, etc., which constitute the pursuit of the purpose, and enterprise association is not itself relationship in terms of them, if any there be. And, leaving on one side any external conditions to which they may be required to subscribe, the conditional status of rules *in* enterprise association is clearly displayed in certain of their distinguishing characteristics.

First, these rules do not even identify, much less define, such an association. If such associates are to give an intelligible account of their relationship they can do so only by specifying the object, the purpose, or the interest in terms of which they are related. Merely to produce a book of rules or to refer an inquirer to a 'constitution' would be disingenuous: such a constitution might be indistinguishable from that of another such association with an entirely different purpose. And were such associates to give themselves a name, it would be informative only if it pointed, directly or indirectly, to the purpose or interest in which they were joined. These, we must be told, are the premisses of the Licensed Victuallers' Association; that is the headquarters of the Poetry Society. Secondly, these rules are contingently related to the purpose concerned. This means that they need not be exclusively appropriate to the pursuit of a particular purpose. And it means also that if any of them were considered in terms of its desirability, it would be judged by its propensity to promote or to hinder the pursuit of this purpose. That is to say, they are instrumental to the purpose which itself constitutes the ready and appropriate criterion for judging their propriety. And thirdly, although enterprise association may entail the recognition of the authority of such rules, and an associate who persistently failed to observe them might be deemed to be delinquent and even be asked to resign his membership, its purpose cannot be identified as that of observing these rules, nor could this purpose be pursued in conduct specified merely as the observance

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of them. Indeed, even a denial of the authority of these rules would not itself be an act of disassociation, as it would be if the terms of association were the rules themselves.

Thus, a fire station may be recognized as an illustration of enterprise association. It is agents related in terms of the common purpose indicated (somewhat obliquely) in its name: to prevent and to extinguish unwanted fires. This joint purpose is pursued in the performance of substantive actions, each a 'managerial' response to a contingent situation related to an imagined and wished-for outcome, a response in which each associate may have a specific role to perform. These associates are, no doubt, also related in the recognition of the authority of some rules of conduct. And these rules are contingently connected with the purpose concerned; they are designed to promote this purpose. A rule which hindered its pursuit would be recognized as undesirable and one manifestly unnecessary on this account would soon fall into neglect or be repealed. These rules are not likely to be mistaken for the Rule of St. Benedict; they are rules for firemen, not monks. But many or indeed all of them might not be inappropriate for a police station. Nevertheless, no fire would ever be prevented or put out if the associates recognized themselves to be related solely in terms of these rules, or if they did nothing but observe them.

I have noticed enterprise association in some detail because of all durable human relationship it is the most familiar: a many in one where the singleness lies in the joint recognition of 'managerial' choices of response to contingent situations contingently connected with the pursuit of a joint purpose or interest. No doubt it is common because of the not unreasonable belief that where many are related in procuring a joint satisfaction the wished-for outcome is more likely to be achieved; and it may also be favoured on account of the warmth it is alleged to generate, the opportunity of 'managerial' command it offers, and the common but obscure belief that the more numerous the participants the better the purpose, the greater the following the truer the faith. But the fact remains that there is virtually no limit to the capacity of an agent to be related to others in this manner. Genuinely conflicting purposes or interests may make it difficult for an agent to embrace certain combinations of enterprise association: members of a vegetarian fraternity are not likely to be devoted partners in an 'Eat more beef' association.

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But interests are more apt to be contrary than conflicting, and no man has but one. Where there is a common purpose or interest it may be recognized, and where it is recognized there may be association in terms of it.

Briefly, then, substantive conduct *inter homines* is an agent transactionally related to others in seeking an imagined, wished-for, but not necessarily 'egoistic', satisfaction; and what I have called enterprise association is agents related to one another in agreement upon a purpose to pursue, either as joint bargainers with others not thus related, or as associates intent upon a common enjoyment. In virtue of being association in terms of substantive wants these constitute a single mode of relationship.

But I have dwelt upon enterprise association because it is the mode of human relationship with which civil relationship is most often identified. Some writers take this view of the matter because they mistakenly think there is no alternative to it. Recognizing conduct *inter homines* as agents seeking satisfactions in the responses of others, they erroneously conclude that all durable human relationship must be enterprise relationship. They find it impossible to imagine association except in terms of a common purpose. With other writers this view of the matter is not so much a foreshortened understanding of human association as an arrest in the engagement of theorizing. They are concerned to celebrate or to promote association in terms of a common purpose because they believe it to be of supreme worth, or, as they say, the only mode of relationship in which the 'social' nature of man is fully requited. The formal relationship of 'friends', for example, is frowned upon lest it impair or prejudice the more admirable substantial relationship of 'comrades'.

Thus, one way or another, many, perhaps most, engagements to theorize the civil condition have been devoted to understanding it in terms of substantive purpose and to identifying the common want in respect of which civil associates may be recognized to be related. And what has emerged from these inquiries has been theorems concerned with a 'community of wills', with a 'common good' and with the specification of this common interest.[1]

[1] This view of the matter is often attributed to Aristotle. But, while he speaks of *polis* association as having and 'end' and as having the same 'end' as human conduct in general, namely, 'the good life' or 'human excellence', this is not for him a substantial purpose but a formal condition. He appears to have thought that *eudaimonia* was difficult if not impossible of attainment in the absence of

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There are, however, many objections to this identification of civil association, not the least of which is the difficulty of specifying a common purpose in terms of which to distinguish civil association from all other enterprise relationship. If, for example, the common purpose in civil association is said to be the common 'prosperity' of the associates, or the satisfaction of some specific common want (like a sewage system or a chicken in the pot on Sundays), or the enjoyment of a notional maximum number of pleasurable sensations, or devotion to a set of religious beliefs which prescribe substantive conduct, then these are unquestionably substantive ends capable of being jointly pursued; but the force and meaning of the adjective 'civil' is to seek. What is being identified is a development corporation, a business concern, an epicurean fraternity, or a religious community and we are left wondering why any of these should be called *civil* association. And this lack cannot be made good by distinguishing civil relationship as compulsory association in terms of any such common purpose or interest because compulsory enterprise association is a self-contradiction: enterprise association is necessarily constituted by the continuous choice of each associate to be related to others in terms of a common purpose, a choice from which he must be able to extricate himself. There is no such thing as collective choice. If, on the other hand, the common purpose is said to be the 'security' or the *tranquillitas* of the associates, or their 'peace' or moral virtue, then the identification again collapses. These are not substantive purposes and they do not specify enterprise association. But be this how it may (and there is much else that might be added to it),[1] there is certainly another categorially different mode of association to be considered; namely, relationship in terms of the conditions of a practice.

I have already considered in some detail what I take a practice to be, and I shall recall it here only in brief outline. A practice is a

certain substantive conditions (e.g. good health and adequate material means) but it is not itself a substantive condition of things. It is an agent continuously disclosing and enacting himself in his own chosen actions while subscribing adequately to considerations of moral propriety or worth.

[1] e.g. if civil association is identified as enterprise association then it cannot be association of equals and it is not self-contained association in the only important meaning of the expression. Association in terms of substantive performances is either necessarily incomplete or it is terminable.

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set of conditions which qualify performances. These conditions may be somewhat indefinite uses or customs, they may even be no more than general maxims of conduct, or they may have the marginally less indeterminate character of rules or regulations; but I have called them 'considerations' because they qualify but do not determine performances. They are not themselves performances, nor are they causal conditions of performances in terms of which actions may become intelligible by being understood as components of a process or so-called pattern of behaviour; they are understood conditions, subscribed to (adequately or inadequately) by agents in choosing and acting. And they constitute a specific practice when they are recognized to compose an identifiable procedure or art.

A practice, then, is an expression of human intelligence. It may have been devised in an activity such as rule-making, but it is never immune from innovation and it may be said to be continuously reconstituted in being used: subscription to its conditions is also an intelligent activity. Practices, or the considerations they are composed of, are never 'applied', they are used; and they can be used only in virtue of having been learned and understood. This understanding is not a theoretical understanding in which the conditionality and the conditions of these conditions are explored; it is the understanding of an adept. And in respect of specifying an action or an utterance they provide materials for considering its artfulness or its propriety, not its intention or outcome: 'statesmanlike' (not successful or unsuccessful), lucid or grammatical (not true or false), pious (not effective or ineffective), or Bosquet at Balaclava: 'C'est magnifique, mais ce n'est pas la guerre.' Hence I have spoken of practices as languages of self-disclosure and self-enactment: the language of diplomacy, of scientific or historical inquiry, the Latin language, or the language of moral utterance and intercourse. For a language is not a fixed stock of possible utterances, but a fund of considerations drawn upon and used in inventing utterances; a fund which may be used only in virtue of having been learned and being understood, which is learned only in being used, and which is continuously reconstituted in use.

But languages of this sort are not only arts specifying conditions subscribed to in the self-chosen utterances and actions of intelligent agents; they are also the terms of relationships. And to be related in terms of a practice is precisely not to be associated in the

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reciprocal satisfaction of wants or in making or acknowledging 'managerial' decisions in the pursuit of common purposes; it is relationship in respect of a common recognition of considerations such as uses or rules intelligently subscribed to in self-chosen performances. It is formal, not substantial relationship; that is, association in respect of a common language and not in respect of having the same beliefs, purposes, interests, etc., or in making the same utterances. Moreover, it is a relationship of equals, not because all users of a language are equally competent but because they are all concerned with the same skill and are specified in the same terms: the relation of flute-players, not of flute-players to audiences; of French-speakers in respect of their language, not in respect of what they have to say; or (in the realm of theoretical understanding) of historians or of chemists to one another. And it is self-contained association in virtue of not being relationship in terms of doing and of the pursuit of joint satisfactions exhausted in the enjoyment of them. A practice may be modified in use, but in being used it is not used up.

There are, then, two categorially discrete modes of human relationship to be reckoned with: the one substantial, concerned with the satisfaction of chosen wants and from which an agent may extricate himself by a choice of his own, the other formal and in terms of the considerations which compose a practice. Of course, subscribing to the conditions of a practice is not itself a separable *engagement*: to speak a language is always to make an utterance and to use a practice is always to do something other than merely using a practice. And conversely, to make an utterance is always to speak a language and totally 'artless' performance is impossible. But the doings and the joint doings are not themselves subscribings to the conditions of practices, and association in terms of the common recognition of the considerations of a practice is a different *mode of relationship* from association in bargaining or joint bargaining with others for the satisfaction of wants.

The reader, if he thought that this faced him with an alternative identification of civil relationship, might be forgiven for being in doubt which way to turn. And since we are concerned with an ideal character and not an ambiguous going-on like the Kingdom of Denmark, he may find himself at a loss even to know how to decide. But I have not distinguished these two modes of human association

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in order to put this alternative before him or myself. That human beings may be associated in terms of the pursuit of a common purpose is beyond doubt, but what I am concerned with and what I have identified as the civil condition is not this; it is association in terms of a practice. And the object of this review is to spell out what this means in terms of what it excludes. Thus, when I say that I am concerned with human conduct (and not a biological or other process), with relationship in terms of a practice (and not corporate or other enterprise association), and with the investigation of the character of a particular practice (distinguished from all others) and to understand it in terms of its postulates, I am identifying an ideal character and a programme of inquiry, not pointing to an assignable association and stipulating this to be its character.

3. *Cives* as such are not partners or colleagues in an enterprise with a common purpose to pursue or a common interest to promote or protect. Nor are they individual enterprisers related to one another as bargainers for the satisfaction of their individual wants. They are related in terms of a practice.

But a practice may be either a procedure composed of rules and uses instrumental (or alleged to be useful) for procuring a certain or a certain sort of substantive satisfaction or in the pursuit of a common purpose (that is, a prudential art or practice); or it may be a set of conditions to be subscribed to in all or any of an agents' actions or utterances, which has no extrinsic purpose and is not related to procuring any substantive satisfaction or to the pursuit or achievement of any substantive purpose (that is, a moral practice). And since civil association is not enterprise association, and since an agent may be 'just' or 'civil' in all or any of his actions, civil relationship is to be identified as association in terms of moral considerations. This of course, does not mean that there is no moral relationship which is not civil relationship; it means only that the conditions of civil association are moral conditions in not being instrumental to the satisfaction of substantive wants.

As a practice, the civil condition is an enactment of human beings; a continuous, not a once-and-for-all enactment. And what is enacted and continuously re-enacted is a vernacular language of civil understanding and intercourse; that is, some historic version of what I have called the language of civility. This is not a stock of

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possible utterances, nor is it a vocabulary of clearly defined norms invoked on occasions of discord or conflict of interest; it is the instrument of that conversation in which agents recognize and disclose themselves as *cives* and in which *cives* understand and continuously explore their relation with one another. It is a language which both contains and responds to their imaginative inventions. Acquiring the use of this mode of thought and intercourse does not entail the surrender of any of the other languages and modes of discourse which human beings have devised for themselves and in which they express their various understandings of themselves and of the world, the arts of agency and the languages of affection or of theoretical understanding. But it allows those who are familiar with it to think and to speak about themselves and their conduct, about the conduct of others, and about their relations with one another in a manner otherwise impossible.

Of course, there may be agents, masters of many arts and acknowledging the compunctions of a moral practice, among whom a language of civil understanding and relationship is unknown; like the Cyclops in the ancient Greek myth of civility. And there may be others, heirs to a language of civil intercourse and not civilly illiterate, but who are so ill educated in this language that they are unable to speak it intelligibly; who speak it as if it were a language in which to express their substantive wants and to conduct bargains for the enjoyment of substantive satisfactions. Moreover, among agents familiar with such a language and who can recognize themselves as *cives*, there will be many occasions when they will not speak it. It is not the language in which lovers understand themselves and confide in one another. Lovers, as such, are not *cives* and civil association is not a relationship of love or affection. Nor is it the language of rivalry. Indeed, it is a characteristic (or what, from another point of view, may be called a virtue) of civility that, being independent of both rivalry and of tender concern, it may subsist where the one is present or where the other is absent. And, on the other hand, there will be circumstances in which this language is expressly invoked and spoken almost to the exclusion of any other; namely, when human relationship, lacking either intimacy or a concern for the satisfaction of wants, is reduced to considerations of 'justice'. Nevertheless, I have called it a language of vernacular intercourse because, where it is recognized, it is never wholly put by; there is no situation *inter homines* to which it

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cannot relate. Of the many different kinds of consideration (prudential and moral) an agent may acknowledge in his performances, those which belong to an art of civil relationship may properly occupy a large or a small part of his attention, but they will rarely be absent and never wholly irrelevant.

It may be thought that this characterization of civil association as the intercourse of agents in terms of a vernacular language is a somewhat cloudy general description, scarcely worth the attention given it because it will dissolve so soon as the details of this relationship are held up to inspection, or that it invokes a somewhat risky analogy and is therefore not to be insisted upon. But I have begun with it because this is what I understand the essential character of the civil condition to be, and I think the investigation of the postulates of this condition has flourished only when it has been tied to a reading of its character in which it is recognized as agents exploring their relations in terms of a language of understanding and intercourse which is native to and is continuously re-enacted by those who use it.

4. The practice in terms of which *cives* emerge and are related to one another is unlike some other practices in being composed entirely of rules; the language of civil intercourse is a language of rules; *civitas* is rule-articulated association.

The recognition of rules is one of our most familiar experiences. We do not always have clearly before us the features in terms of which we distinguish and identify rules, but for the most part we deal confidently with the puzzles this experience throws up. We have no difficulty, for example, in distinguishing a rule from a piece of advice, a request, a plea, or a warning. These are all argumentative and persuasive utterances. They arise in particular situations and they are tied to the occasion; they are transactions in which ascertainable agents seek the satisfaction of their wants and others respond in actions or utterances of their own. Advice, warning, etc. may refer to rules, and they may be governed by rules, but they are not themselves the enunciation of rules. Similarly, rules are confidently distinguished from orders, commands, behests, injunctions, directives, or mere prohibitions. These also are *ad hoc* utterances, different from advice or requests in being imperative and not argumentative and thus seemingly more like rules; nevertheless they are transactions between ascer-

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tainable agents seeking substantive satisfactions. They may be authorized by rules, they may be uttered in pursuance of rules, and whatever obligation there may be derives from their connection with rules; but they are not themselves announcements of rules. Further, the choices in which enterprise association is constituted are not themselves rules although they may recognize rules; they are choices of common purposes. And the 'managerial' decisions in which the joint purpose of such an association is pursued are not themselves proclamations of rules; they are bids to satisfy wants, and they are no different from the contingent choices in which individual agents respond to their understood situations. And we can easily distinguish between a man choosing to get up early one morning in order to finish a piece of work and his deciding to give himself a rule of conduct, e.g. to rise every day at dawn. Nor are we severely tempted to confuse an observed regularity of behaviour or a habit with a rule of conduct. Such regularities may perhaps be used to forecast occurrences and they may be the outcomes of the observance of rules, but they are not themselves rules and they are not decisive evidence of the recognition of rules.

And when the features used in making such distinctions are gathered up, a character emerges. A rule is an authoritative assertion, not a theorem. It may, of course, be argued about, it may be approved or disapproved, it may be referred to in a persuasive argument designed to 'justify' a performance or in giving a 'ruling' about what should or should not be done, and it may be theorized in terms of its postulates, but it is not itself argumentative and (recognized as a rule) it does not invoke approval or disapproval or offer itself as a reason in a plea of justification or as a subject of theoretical inquiry. It calls only for assent in any performance to which it may relate.

Further, a rule may be referred to in an utterance addressed to an ascertainable agent (a command or a request) but it is not itself an utterance, and instead of an ascertainable respondent it has a self-determined jurisdiction. This sphere of concern is identified (expressly or implicitly) in terms of kinds of activity, sorts of circumstance, or sorts of persons in respect of such activity or circumstance: playing chess, or being chairman of a public meeting or trustee for somebody else's property. All agents who fall within this jurisdiction are equal in respect of the rule and each has an

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obligation to subscribe to it. An agent cannot exempt himself from this jurisdiction merely by choosing to do so, and he is not exempt from this obligation merely because he does not 'feel' it. He may choose not to conform his conduct to the rule, but to violate or to neglect a rule is neither to deny nor to revoke its status as a rule: rules assert norms of conduct, they do not determine or forecast what will be said or done. If an agent refuses to be obligated there is but one valid reason he may give for his refusal, namely, that it is not a rule for him because he does not fall within its jurisdiction. Were he to plead that to have observed the rule would have impeded his achievement of a wished-for satisfaction, or that he does not approve of the rule and considers it should be changed or abolished, he would merely reveal his ignorance of what a rule is. And where a rule is designed to promote the achievement of a substantive satisfaction, its authority does not derive from its achieving what it was designed to achieve, nor does it derive from anyone's approval of what it prescribes.

A rule is a prescription. It does not initiate a performance; it exists in advance of the situations of agents and it is unable to forecast what these contingent situations will be or the wants to which they may give rise. And while it is used by agents in choosing what they shall do or shall say, it is never used up (as a command is used up) or exhausted in any performance; it remains 'standing' for unknown future occasions. An order may be said to partake of the character of a rule when it is a 'standing order'.

Further, rules do not enjoin, prohibit, or warrant substantive actions or utterances; they cannot tell agents what to do or to say. They prescribe norms of conduct; that is, abstract considerations proper to be subscribed to in choosing performances but which cannot themselves be either 'obeyed' or performed. These prescriptions may be imperative or they may be authorizations, they may specify forbearances or confer powers, and they may identify offences, but what they enjoin, authorize, or identify are not substantive actions but considerations to be acknowledged and taken account of in acting. And every rule is a composition of identified and described conditions of conduct which, if it is mistaken for or is turned into a definition, becomes unusable.

And finally, a rule subsists in being understood and in being recognized as an authoritative prescription of identifiable conditions to be subscribed to in human conduct. The terms of this

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recognition may vary and I shall consider them later in connection with the rules of civil association; but it may be said now that these terms have nothing whatever to do with approval or disapproval of the conditions prescribed, with having consented or not consented to these conditions, or with the outcome in human conduct (in general or in respect of the agent concerned) of their being observed or not observed. Moreover, it does not belong to the character of a rule as such that it shall have been expressly enacted, that it should be alterable or revokable, that there shall be a procedure or an apparatus for determining whether or not an agent in acting has adequately subscribed to its conditions, or that there should be a stipulated penalty attached to inadequate subscription. But if a rule is expressly enacted it can have no jurisdiction over actions performed before that enactment. And if there is such a penalty it will be officially imposed and will not merely follow upon a failure, as the fell consequence is expected to follow upon an unpurged breach of taboo; the failure is the reason, not the cause, of the penalty.

Thus, to translate features into postulates, the conditions in terms of which rules may be theorized are agents engaged in self-chosen transactions for the satisfaction of wants, the idea of a practice or a procedure distinguished from both a process and a performance, of assent or dissent distinguished from approval or disapproval, of intelligent subscription distinguished from mere obedience, and the ideas of authority and obligation distinguished from compulsion or considerations of likely outcomes. And in elucidating and confirming one another these conditions compose an ideal character: association in terms of rules.

The civil condition, then, understood as agents acknowledging themselves to be *cives* in virtue of being related to one another in the recognition of a practice composed of rules, is association in somewhat more exactly specified terms than, for example, the intimations provided by general theorems about proper conduct or by maxims of indeterminate jurisdiction which point uncertainly to imperfectly identified normative considerations: e.g. so-called 'ideals'. Nevertheless, the components of this practice are rules, and consequently the terms of civil relationship are neither definitive principles of conduct nor explicit injunctions addressed to assignable agents commanding or prohibiting substantive

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actions or utterances. And nothing should be allowed to obscure the view of civil association as relationship in terms of a language of understanding and intercourse continuously used in conduct and enacted and re-enacted in being used. It calls, however, for further specification.

Since the civil condition is not enterprise association and since *cives* as such are neither enterprisers nor joint-enterprisers, it follows that they are related solely in terms of their common recognition of the rules which constitute a practice of civility. And the most important postulates of *civitas* stem from this consideration. What have to be identified and understood are the theoretical conditions of a durable and diurnal association *inter homines*, as indisputable as may be, where the terms of relationship are exclusively the rules of a practice which may concern any and every transaction between agents and is indifferent to the outcome of any such transaction: the practice of being 'just' to one another.

The first of these conditions is, then, rules of a certain kind. They are not the rules of a game the jurisdiction of which is settled in terms of an engagement (like a cricket match) which itself constitutes a relationship. Nor are they the rules of enterprise association which specify conditions alleged to be instrumental to the pursuit of what is already recognized as a common purpose. Here, there is no game being played and there is no common enterprise: association begins and ends in the recognition of rules. Such rules I shall call 'law'; and, so that they may not be confused with the heterogeneous collection of rules and rule-like instructions, instruments, provisions, etc. which constitute the conditions of those ambiguous associations we call states, I shall call them *lex*: rules which prescribe the common responsibilities (and the counterpart 'rights' to have these responsibilities fulfilled) of agents and in terms of which they put by their characters as enterprisers and put by all that differentiates them from one another and recognize themselves as formal equals—*cives*.

That *lex* should be as exact, as little doubtful, and as economical as may be, that the conditions it describes and prescribes should not conflict with one another, that they should not be concealed from those who have an obligation to subscribe to them, and that there should be no room for arbitrary exemptions or dispensations —these are commonplace considerations: they belong to the character of rules of any sort. What distinguishes *lex* is that it is

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not a mere collection of rules but a system of rules, and the sort of system it comprises.

A set of rules, such as those of a game, prescribes norms of conduct which provide individually for the kinds of actions and occasions which constitute the game; the rules fit together, but as a set they do not compose a system. They are related to one another incidentally rather than contingently or argumentatively. And while the rules of enterprise association (an orchestra, a hospital, or a school) have a more systematic character, they derive it from the instrumental relationship of each to the common purpose being pursued. And, of course, they provide only for the particular sorts of engagement which constitute the pursuit of that purpose. The laws of civil association, on the other hand, are not imposed upon an already shaped and articulated engagement; they relate to the miscellaneous, unforeseeable choices and transactions of agents each concerned to live the life of 'a man like me', who are joined in no common purpose or engagement, who may be strangers to one another, the objects of whose loves are as various as themselves, and who may lack any but this moral allegiance to one another. Nor do they impose any such common purpose upon those who fall within their jurisdiction: they are not devices for engineering the promotion of a common interest. These laws are the sole terms in which *cives* are related. And in constituting this relationship they create and delineate a *persona civica* which wholly depends for its identity and coherence upon their symmetry. The systematic character of *lex* is a relationship between the prescribed conditions of conduct themselves, in virtue of which they continuously interpret, confirm, and accommodate themselves to one another, and thus compose a self-sufficient (although not self-explanatory) system. And, although each item of *lex* has a specific focus of attention and may immediately concern some *cives* more than others, none is a command issued to an assignable agent and the considerations it prescribes belong to the conditions which constitute relationship common to all *cives*.

Lex, then, is a self-contained system of law; and it is a system of law which must identify its own jurisdiction. Among the laws in terms of which *cives* are related there must be rules identifying *civitas* itself. Chance and choice may delineate the allegiance of affection, a common purpose or interest may specify the jurisdiction of a rule-book, and individual seekers of satisfactions may be

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circumstantially joined in the recognition of the rules and uses of an art or a prudential procedure related to the pursuit of those satisfactions, but *lex* must identify its own jurisdiction because it relates those who are not, as such, otherwise related.

5. All modes of human relationship are conditional upon their terms being recognized and understood by the associates. And, since general abstract considerations cannot themselves be the terms of any association, what has to be understood is these considerations in their relation to contingent situations. A postulate of any association is, therefore, a procedure in which general considerations are related to contingent circumstances. Thus, for example, in enterprise association the associates are joined, not merely in respect of their agreement upon a common purpose, but in terms of their continuous agreement upon how it shall be pursued in emergent circumstances, an agreement which is not deducible from their choice to pursue the common purpose. And the postulated procedure is that in which this common purpose is continuously resolved into contingent 'managerial' decisions to do *this* rather than *that* in relation to it, a procedure in which uncertainties and disputes about these necessarily disputable decisions are settled. Agreed 'managerial' decisions (that is, the continuance of the relationship) are the outcome of the resolution of such uncertainties.

Where, then, association is in terms of a system of *lex*, it is conditional upon the authoritative prescriptions of *lex* being known to the associates and upon the obligations or authorizations they describe being generally observed. If they were not known they could be subscribed to only by chance and they would not be terms of intelligent association; and if they were not generally observed the relationship would lapse because here, where there is no common purpose or other common reason of association, these are the only terms of relationship. But the first of these conditions cannot be satisfied merely by publication, nor the second merely by an apparatus of enforcement. What has to be known or ascertainable is not only *lex* as a system of general considerations to be subscribed to in choosing actions, but what will count as an adequate or acceptable subscription in a contingent situation. And what must be provided is not only a sanction, but a means of ascertaining what must be known; that is, a means of settling

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uncertainties and disputes about the adequacy of contingent subscriptions. Thus, civil association in respect of being relationship in terms of necessarily somewhat indeterminate descriptive conditions, postulates a procedure of adjudication, authorized in the system of *lex*, in which these uncertainties and disputes are resolved and the conditions of association in contingent situations ascertained. In short, it belongs to the character of *cives* (as it does not belong to the character of agents joined in enterprise association) to be related as suitors to a judicial court.

This does not mean that in the civil condition there are no known civil obligations until such a court has specified them, or that without the judgement of such a court *cives* are necessarily ignorant of their civil obligations. For the most part, it may be supposed that they are aware of their responsibilities (as enterprise-associates are aware of their common purpose), and that they respond to them with varying degrees of intelligence and conscientiousness, sometimes (in ignorance or in generosity) doing more than is required and at others negligently or deliberately doing less. It means that civil association postulates uncertainty and dispute about how the norms of *lex* relate to contingent situations and about the adequacy of circumstantial response to these norms, and therefore postulates an authoritative adjudicative procedure for resolving such uncertainties and disputes.

Such a procedure is not a device for achieving agreed 'managerial' decisions about the pursuit of a common purpose or interest; it is a court of law. And in civil association a court of law is concerned with settling disputes about actions or utterances performed by agents within its jurisdiction and alleged to have failed adequately to subscribe to the norms of *lex*. The office of this court is to ascertain what had been said or done on a particular occasion and where the responsibility for it lies, and to determine its relation to the conditions prescribed in *lex*. This court has an obligation to reach a conclusion. And since this conclusion cannot be indefinitely postponed, it must be reached on the evidence available at the time, but it must also enjoy a high degree of immunity from subsequent disturbance.

Leaving on one side variations of minor importance, in every such dispute there are three independent parties: a plaintiff (or claimant), a defendant (or respondent), and a 'judge'. The part of the plaintiff is to contend that an action has been performed for

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which the defendant is responsible (or, perhaps, from which he seeks to benefit) and that it infringes a specified prescription of *lex*, to produce evidence in support of this contention and to formulate his suit in an argument designed to win the assent of the 'judge'. This party may be the person who has himself suffered or believes himself to have suffered damage from the alleged infraction of the conditions prescribed in *lex*, or he may be an official authorized to prosecute; but whoever he is and whatever the complaint or indictment he speaks to, he is a suitor to the court. The part of the defendant is to try to rebut the contentions of the plaintiff, or such of them as, being rebutted, destroy or irreparably damage the case against him. He is not called upon to convince the court of anything save that the case against him is insufficiently established. The proceedings are themselves subject to a procedure, the practice of the court, comprised of rules prescribing conditions to be observed by plaintiff and defendant. They concern the kind of evidence which may be adduced, the manner in which it may be 'proved' or elicited from witnesses, descriptive specifications of responsibility and the conditions upon which the disputing parties may be deemed to have achieved their purposes. For the most part, this procedure is designed to prevent the dispute from being obscured by irrelevant considerations. The office of the 'judge' is to listen, to ensure that the practice of the court is observed and to settle any dispute which may arise in respect of it, and to reach a verdict in which one or other of the disputants is declared to have established his case. What falls to be decided is whether or not the action complained of was performed in the manner alleged, whether or not the defendant may be held responsible, and whether or not it constitutes the alleged infraction of the norm of conduct prescribed in *lex*.

Such a court is not a court of inquiry; its procedure is litigious and not inquisitorial, and its conclusions are judicial and not 'managerial' decisions. And further, it is not a court of arbitration designed to resolve conflicts of choice in which the disputants bargain from whatever strength they respectively have, in which the office of arbitrator is to remove whatever illusions the disputants may have about the strength of the several positions, and the outcome of which is a resolution of the conflict whose virtue is that the disputants have been persuaded to accept it. In a court of law, the 'judge' is not an arbitrator in a conflict of interests; he is

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the custodian of the norms of *lex*. And the conclusion reached does not represent the relative bargaining strengths of the disputants but the relative strengths of their claims measured on the independent scale of these norms of conduct. Reaching such a conclusion is relating a legal norm to a contingent situation. And what is important is not the obvious consideration that in some cases the meaning of *lex* in relation to the contingent situation is more readily concluded than in others, but that in no case can it be concluded without reflection. There is no 'plain case' in the sense of a dispute which settles itself or one which can be settled in a merely 'administrative' act. *This* uncertainty is intrinsic to *lex* as the terms of human association.

Adjudication, then, is a necessary condition of civil association, and it postulates *lex*. No doubt, rules emerge from adjudicating disputes, but the notion that there is no *lex* in advance of adjudication and that adjudicating cases creates it, is absurd. Nevertheless, to adjudicate is to declare a conclusion which is not, and could never be given in *lex*; namely, how a prescribed norm of conduct stands in relation to a contingent situation. Consequently, adjudication is to be recognized as a procedure in which the meaning of *lex* is significantly, justifiably, appropriately, and durably amplified: significantly, because such a conclusion is not given in *lex*; justifiably, because the authority of the amplification must be its relation to *lex*; appropriately, because the conclusion must resolve a specific contingent uncertainty or dispute about the meaning of *lex*; and durably, because it must be capable of entering the system of *lex* and becoming available not only to 'judges' to be used in resolving future uncertainties or disputes but also to *cives* to be used in choosing what they shall do.

In this procedure descriptively identified general conditions of conduct are related to contingent situations unforeseen in these general conditions. Its conclusions must refer to *lex* and they must stand seized of the authority of *lex*. That is to say, the only admissible reasons for such a conclusion are those which connect it with the known system of *lex* and purport to exhibit the manner in which it shelters under the authority of the system. Therefore, adjudication cannot be understood as the arbitrary exercise of the so-called 'subjective will' of the judge; a conclusion reached in this (in any case fanciful) manner could not pretend to the authority

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of *lex*. Nor can this procedure be one in which the conclusion is understood to be the resolution of an uncertainty (or an 'interpretation' of *lex*) in terms of a so-called 'social policy' or the common purpose or interest of an association: here, there is no such common purpose. The meaning of *lex* lies in the considerations it prescribes and in prescribing conditions *lex* cannot prescribe an imagined and wished-for outcome in human conduct. And if the procedure invokes a general moral consideration it must be in respect of its antecedent recognition in *lex* and in terms of that recognition.

Further, where *lex* is recognized to have been expressly enacted and there is an authentic text, an adjudicative procedure cannot be understood as the resolution of an uncertainty or dispute about its meaning in relation to a contingent situation by referring to the intention of the legislator. For, if 'intention' here stands for a substantive condition of things imagined and wished for by the legislator as the outcome of the operation of the enacted law, then it must be wholly irrelevant to adjudication: legislators may imagine such conditions of things, but laws are not devices for achieving them. And if it means the supposed conjectures of the legislator about how the prescribed norm of conduct will stand in relation to future, necessarily unforeseen, contingent situations, then it is hardly more than a hallucination. Where there is an authoritative text, the connection between an adjudicative conclusion and *lex* must be a relation to the text itself and not to any contingency concerned with the drafting of it. And lastly, adjudication is unavoidably connected with *lex* in being subject to the rules in which a 'judge' is authorized to adjudicate, but this can never be the sole connection. An adjudicative conclusion must be understood to be connected with *lex* as the resolution of an uncertainty or dispute about the meaning of *lex* in relation to a contingent situation and not recognized merely as the conclusion of an adjudicator authorized in *lex* to declare such a conclusion.

On the other hand, adjudication cannot be a deductive procedure. And this is so, not because *lex* is a system of somewhat vaguely defined norms of conduct from which it is difficult to discern exactly what conclusions 'follow', but because it is a system of descriptively identified general conditions to be subscribed to in choosing actions from which no conclusions about adequate subscription in contingent situations can possibly be *deduced*. Adjudication is certainly reasoning, but it cannot be deductive

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reasoning. Nor will the character of *lex* allow us to understand the relationship of adjudicative conclusion to it as that of either implication or subsumption. Such conclusions cannot be instances, or examples, or 'applications' of *lex*. And to speak of the procedure of adjudication as that of 'finding' what is latent in *lex* is to resort to unfortunate metaphor. Even if it is codified, *lex* is neither a catalogue of possible contingent circumstances, each with its prescribed conditions of response, in which an adjudicator might hope to identify the situation with which he has to deal and from which he may 'read off' the required conditional response, nor is it a storehouse of minutely distinguished conditions to be subscribed to in choosing actions in which a 'judge' may hope to discover that which exactly fits the contingencies of his problem situation.[1] Such notions are, perhaps, genuine attempts to convey the closeness of the relationship between adjudicative conclusion and *lex*, but they go astray in failing to recognize that adjudication is concerned with the *meaning* of *lex* in a contingent situation, that meanings are never deduced or found but are always attributed or given, and that what has to be understood here are the conditions to which this attribution must subscribe.

A judicial conclusion is connected with *lex* in a contingent relationship; it is an illustration, not an exemplification of *lex*. In adjudicating, a meaning is being attributed to a rule of law in terms of which to settle an uncertainty which has become the occasion of a dispute, and the conditions to be satisfied are that this meaning must be one which *lex* will tolerate and one which dispels the uncertainty in such a manner as to settle the dispute without immediately provoking further uncertainty. This conclusion cannot be said to be either correct or incorrect and there is no illumination to be got from an expression such as 'legal certainty'; but it may be perverse in failing to satisfy either or both of these conditions. And whatever difficulty there may be in spelling out a procedure of adjudication and identifying its logic, it is neither esoteric nor significantly 'intuitive'; that is, the conclusion is such that reasons may be asked and given for it, and these reasons relate it to *lex* and may be more or less convincing.

[1] Thus, a seventeenth-century writer likens the law to 'a shoemaker's shop, that is furnished with all manner and sorts of lasts for men's feet, where each man may be sure to find one last or other that shall fit him, be he great or small'. Quoted C.K. Allen: *Law in the Making*.

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The question being considered in adjudication is not the hypothetical speculative question, What meanings will this rule of law tolerate? but the contingent question, What meaning may this rule of law justifiably and appropriately be made to tolerate here? In answering this question the first consideration to be taken into the account is the limits of tolerance imposed by the system of *lex* itself. Every system of law has propensities lodged in the meanings attributed to its more general and least fluctuating concepts which, although they are no more than propensities and are not immune from change, cannot be violated in an adjudicative conclusion without serious damage to the equilibrium of the system. Thus, the adjudicator is always the custodian of the integrity of the system. But in considering what appropriate and thitherto untried meaning a rule of law (or one of the descriptive expressions or words it includes) will tolerate, the adjudicator cannot merely attend to the rule as a description of abstract conditions to be subscribed to in choosing actions; what he has to consider is this rule amplified by the meanings it has already been made to tolerate in earlier judicial decisions. And this is a condition not merely imposed upon *lex* (in, for example, rules relating to the recognition and authority of 'precedents'); it is a condition upon which the systematic character of *lex* depends. Nevertheless, the focus of the adjudicator's attention is not upon these amplifications of meaning in respect of their having been used to settle earlier disputes, but in respect of their having contracted or expanded the range of meanings the rule concerned will tolerate. An adjudicative procedure cannot properly be said to be 'arguing from case to case' in terms of the likeness or unlikeness of the contingent situations concerned: no 'case' can be a condition or a precedent for reaching an adjudicative conclusion in another 'case'. The reasoning is analogical; it is not concerned with the similarities of 'cases' but with what can be abstracted from a judicial conclusion, namely, the amplification of the meaning of *lex*. If a hole in a fence large enough for a child to squeeze through has been declared a circumstance which may transform an infant intruder from a trespasser into an invitee, what is to be said about a gate without a latch in respect of an adult?

It may be said, then, that an adjudicative conclusion is one in which a dispute is settled by the declaration, not of a 'managerial' decision related to a common purpose, nor of a so-called 'sub-

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jective' opinion about good or bad conduct, but of a rule. This rule, enunciated by a 'judge', has to be 'justified', and it may be 'justified' only in an argument which purports to exhibit it as a meaning which *lex* as it has come to be can tolerate; that is, in reasoning which displays its contingent relationship with *lex*. It is a rule formulated in resolving an uncertainty which has become the occasion of a dispute, but it constitutes an enduring amplification of the meaning of *lex* which may be used analogically in considering subsequent cases of dispute and in reaching adjudicative conclusions in respect of them. In short, the relationship between adjudicative conclusion and *lex* is the same *kind* as that between 'managerial' decision and the common purpose it purports to serve: a contingent relationship. Such conclusions no more 'make' *lex* than such decisions 'make' the common purpose or interest they contingently illustrate. And just as enterprise association is necessarily relationship in terms of acknowledged 'managerial' decisions contingently connected with a common purpose, so civil association is necessarily relationship in terms of the accumulated meanings of *lex* which emerge in the adjudication of disputes.

Association in terms of *lex*, then, postulates a procedure in which the meaning of *lex* in a contingent situation may be authoritatively determined and the adequacy or inadequacy of the subscription of an action to it thus declared. But this procedure, concerned to make the language of civil association a more reliable but not less flexible instrument of intercourse by removing its contingent ambiguities, may defeat itself, and it is liable to abuse. It may inadvertently increase the severity of civil relationship, it may afford opportunities to speculative or extortionate plaintiffs, or it may confront a defendant with a duty or a liability of which he may be said to have been excusably ignorant. And just as *lex* necessarily determines its own jurisdiction, so adjudication must itself provide whatever safeguard there may be against it being abused. It is itself concerned to defeat the abuse of its procedure in chicane, to protect *cives* against the legal exploitation of their disabilities, to shield the otherwise defenceless, to recognize and give effect to honest intention imperfectly expressed, and to make allowance for 'accidental' default. And it is concerned to do all this and its like not by the exercise of an arbitrary discretion, not as a supplementary consideration in settling disputes, and not as a separate 'equitable' jurisdiction, but according to rules and procedures themselves

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designed and concerned to mitigate the *rigor juris*. Considerations of 'equity' are themselves considerations of *lex*.

6. But if in the civil condition a system of *lex* and a procedure of adjudication are central in specifying the terms of association, they are necessarily partnered by a procedure of legislation; that is, an authoritative procedure in which new *lex* is deliberately enacted or current *lex* is expressly amended or repealed. How much use may be made of such a procedure is a matter of circumstance. But in the civil condition a too ready resort to it may be recognized as a somewhat clumsy and hazardous invasion of adjudicative procedure which may imperil the system of *lex* by abrupt alteration, or as a fruitless attempt to spell out what cannot be spelled out in advance of the event. And a civil condition has begun to crumble when laws are enacted *ad hoc* in the erroneous belief that *lex* is ignorant of what it does not expressly mention or powerless to respond to what has not been foreseen.[1] Nevertheless, where association is solely in terms of *lex*, a procedure in which response may be made to notable changes of belief or sentiment about the desirable conditions of civil conduct by deliberately altering these conditions is at least the emblem of *lex* as a human responsibility and it may be said to be a condition of the durability of this mode of association. And while the terms of this procedure may be any that commend themselves to the associates concerned, it is conditional upon their being recognized as authoritative. In other words, legislative procedure in civil association must be composed of rules and it must be recognized as itself a component of the system of *lex*.

To enact *lex* is to describe in an authoritative text conditions to be subscribed to by *cives* in making their choices of actions or utterances, and it is to assert that from a certain date subscription to these conditions shall be obligatory. Such an enactment may be recognized as an amplification of the system of *lex*, but legislation is distinguished from adjudication in respect of its procedure. Lawsuits involve adversaries, legislation does not. It is not a conclusion reached about the meaning of *lex* in relation to an uncertainty or dispute about that meaning in a contingent situation which may be used analogically in deciding other such cases of uncertainty or

[1] Thus, whereas enterprise association depends upon continuous 'managerial' decisions about how its purpose shall be pursued, civil association depends not upon continuous legislative innovation but upon continuous adjudicative conclusion.

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dispute. It is, on the contrary, a general norm of conduct injected into the system of *lex* which may become the subject of a judicial conclusion about its meaning (or the meaning of one of its descriptive expressions) in a contingent situation and is a fixed point in terms of which such analogical argument may be 'justified' in its conclusion. Thus, enacting *lex* is making a choice distinguished from all other choices in that it may be made only by persons in respect of their having been expressly authorized to make it and who are required to subscribe to a certain procedure, and in being the choice, not of an action or utterance related to an imagined and wished-for substantive outcome, but of a norm of conduct which describes conditions to be subscribed to by *cives* in making their own unforecastable substantive choices in unforeseeable contingent situations and in terms of which these choices may be civilly 'justified' or indicted.

The enactment of *lex*, then, postulates a belief that *lex* is alterable, a recognized procedure of legal innovation, and the deliberation of *lex* in terms of its desirability. For *cives* as such *lex* is an authoritative system of prescribed conditions to be taken account of in choosing actions. For adjudicators as such it is the reason for a conclusion about its meaning in a contingent situation and the reason for what may follow from this conclusion. But for the legislator as such *lex* is an invitation to consider whether it should not be in some respect changed, extended, or contracted, and if so, then, precisely what change should be made. Hence, understanding the deliberate enactment of *lex* is understanding this deliberative engagement in terms of its postulates. And since I must return to this feature of civil association in order to consider it in a wider context, I shall notice here merely what this engagement necessarily excludes.

We may put on one side without more ado the view that legislative opinion (so to call it) is merely 'subjective preference', the exhibition of so-called 'will' of a legislator. No opinion is of this character and least of all opinion about what conditions of civility should be imposed upon the choices of all *cives*. The postulates of this opinion are beliefs, sentiments, understandings, etc., which may be debated: it is an exhibition of human intelligence. But, on the other hand, legislative opinion cannot be demonstrably correct or incorrect; *lex* cannot be deduced from the so-called dictates of Reason. Further, since civil association is not relationship in terms

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of the pursuit of an agreed common purpose or interest, and since *lex* is neither a schedule of current 'managerial' decisions about the pursuit of a common purpose nor the rule-book of an enterprise association, deliberation about *lex* in terms of its desirability cannot be considering either the relative desirability of alternative 'managerial' decisions or what changes to make in the rule-book of an enterprise association. And this points to an important characteristic of legislative opinion in civil association which must be more fully considered later; namely, the necessary absence of a ready and indisputable criterion for determining the desirability of a legislative proposal.

Considering the rule-book of an enterprise association in respect of the desirability of any of the conditions it imposes upon the conduct of the associates calls into play a ready and undeniable criterion: the propensity of the conditions concerned to promote or to hinder the pursuit of the purpose of the association. Rules here are instrumental to the achievement of a substantive end. But deliberating *lex* from the point of view of the desirability of any of its prescriptions is controlled by no such criterion; there is no such common purpose or interest. And again, since civil association is not relationship in terms of transactions between agents in which they seek substantive satisfactions in the responses of one another, *lex* cannot be a schedule of current awards designed to promote the achievement of some satisfactions at the expense of others. Consequently, an invitation to consider whether *lex* should not be in some respect altered, contracted, or extended cannot be an invitation to consider claims to enjoy such awards, to deliberate a change in such a schedule, to debate the terms of a treaty between divergent interests or the like. Legislative opinion is concerned with the desirable composition of a system of moral, not instrumental, considerations and therefore it cannot be concerned with the claims or merits of interest in procuring substantive satisfactions. And such opinion is contentious, not because interests pull in different directions and clamour for recognition or advantage, but because there must always be more than one opinion about what constitutes a desirable condition of a system of *lex* and about the changes in it which would make it more desirable.

Association in terms of a system of *lex* is, then, a condition of some complexity. Before all else it is relationship in terms of rules prescribing conditions to be subscribed to by *cives* in their self-

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chosen transactions with one another, conditions which may impose obligations or disabilities or specify protected practices. And in this respect *lex* is to be recognized as a vernacular language in which *cives* understand themselves and their mutual relations. But, besides and as a condition of this, it is association in terms of rules specifying the jurisdiction of *lex*; rules for ascertaining the meaning of *lex* and for adjudicating disputes about its meaning in contingent situations; rules for making, repealing, or amending *lex*; rules in which offices such as those of adjudicator or legislator are set up or recognized and which specify their powers, duties, and procedures; and rules for identifying and validating rules. And while it is often useful to distinguish these different kinds of rules, they together constitute a single system of related conditions, a practice of civil association.

7. Now, it might be supposed that the civil condition, specified as relationship in terms of a system of *lex* which prescribes conditions for the intercourse of *cives* and provides offices and procedures concerned with enacting *lex* and with settling uncertainties or disputes about its meaning in contingent situations, is a self-sufficient mode of association within which to engage in all those adventures of self-disclosure and self-enactment and to explore all those relationships of affection, of compassion, of business, or of joint enterprise which constitute the substantive concern of a human life—subject, of course, to the absence of the contingent imperfections to which it must be supposed to be liable: eccentric adjudicators, crafty plaintiffs, slippery defendants, corrupt or careless legislators, ignorant draftsmen, and forgetful clerks. But this is not the case. For, the civil condition is not merely relationship in terms of ascertainable general norms prescribing conditions of civility to be recognized in choosing actions and utterances, both official and those of the diurnal intercourse of *cives*; it is also relationship in terms of the assurance, or at least the expectation, that the conditions will be generally and adequately subscribed to. And this postulates procedures and offices which do not belong to the engagement of enacting *lex* or of elucidating its meaning in contingent situations but to the engagement of 'ruling'. And 'ruling', strictly speaking, is an engagement both necessary and unique to civil association.

To rule is to make utterances which require imagined and

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wished-for substantive responses from assignable persons in particular contingent situations. It is not prescribing conditions to be acknowledged by unspecified (including yet unborn) persons in choosing what they shall do or say in unforeseen future contingent situations; it is requiring or forbidding an identified agent to make a specified choice in an assignable situation. Like that of *lex*, the mode of discourse in ruling is not argumentative or advisory; but unlike that of *lex*, it is injunctive. And it is not merely utterance commanding or prohibiting a specific performance; where there is reluctance to comply, it is exacting, if not this specific performance, then another, and it is having the resources to do so. Of course, in the civil condition, ruling is not an unconditional engagement; it is the exercise of authority and its authority derives from *lex*. The compulsion exercised in ruling is totally misunderstood if it is thought of as an unpurged residuum of the violence which civil association purports to abate, and in exercising it rulers are not doing what the conditions prescribed in *lex* withhold from the intercourse of *cives*. But it is unlike legislating or adjudicating in being the exercise of the authority to make utterances which demand or prohibit substantive actions and this right vested in known offices and exercised in procedures specified in *lex*.

Ruling is annexed, in the first place, to the office of adjudicating disputes about the meaning of *lex*. For, the adjudicator is not only concerned to elucidate the meaning of *lex* where uncertainty has provoked dispute, but also to condemn inadequate subscription to the conditions it prescribes; and not only to condemn it, but to halt or to deter it, or to order compensation to those whom it has injured. He may, for example, declare invalid a claim to enjoy a substantive satisfaction, prohibit the enjoyment of such a satisfaction, enjoin a delinquent to desist from what he is doing, assign and exact a penalty from those convicted of offence, redress injury by ordering restitution, recovery, or indemnity and enforce these orders by distraint, or declare *ultra vires* and thus nullify an act of an official. And it is in virtue of such orders and of the procedures in which they may be executed that the civil condition is not only relationship in terms of a language of civil intercourse used by *cives* in their transactions with one another and of procedures for settling uncertainties about the circumstantial meaning of the descriptive expressions which compose this language, but is relationship in terms of the assurance, or at least the expectation, that the shelter

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of *lex* gives substantive protection and that injustice shall not be committed with impunity.[1]

And secondly, ruling, understood as the authority to require (what *lex* itself is incapable of demanding) the performance of substantive actions by identified persons, is a condition of civil association where it is concerned with *administering* the prescriptions of *lex*. It does not belong to the character of the civil condition to identify ruling with an extensive apparatus of administrative control, and there will be a disposition to prefer judicial to administrative rule and administrators who are servants of a court; but that there shall be something of the sort is a condition of civil association. It will be concerned (somewhat cautiously) with preventing conduct in breach of these prescriptions, more confidently with seeking, apprehending, and holding putative delinquents pending their accusation in a court of law, with imposing temporary order upon a confused situation likely to compromise the civil condition if it is left unregulated, and with similar administrative engagements. Here, ruling is 'policing' civil association; it is the exercise of an authority vested in office-holders (not themselves adjudicators) bound by procedures. And although administrative orders need not be the outcome of adjudication and therefore cannot always be referred to a judicial conclusion, they refer to *lex* and are eligible to be judged in terms of the norms prescribed in *lex*.

The civil condition, then, because it is association in terms of *lex* and because *lex* is unable to interpret, to administer, or to enforce itself, postulates an apparatus of rule. But the orders addressed to assignable persons and the enforcement of such orders which constitutes the engagement of ruling are not transactions in which rulers seek imagined and wished-for satisfaction of their contingent

[1] In the myth of Protagoras, the interest of Zeus in the race of men is that they honour the gods and that they be just to one another; otherwise he is indifferent to their antics. Hermes is commissioned to initiate human beings into the art of civil relationship, an art unlike any other in being the concern of everyone and in not being itself concerned with the satisfaction of wants. The civil condition is recognized as intercourse in a language of law which prescribes the conditions of just conduct, but it is also recognized as association in terms of the assurance that the prescriptions of law will be enforced: no injustice without redress or penalty. Plato: *Protagoras*, 322 ff. And this latter condition, specified in the *Agamemnon* (1.183) as the grace which comes to human life when penalty is annexed to injustice and recompence to injury, is held to be so important that it is said to be the greatest of the blessings of Zeus. Cf. Hugh Lloyd-Jones: *The Justice of Zeus* (1971), ch. iv.

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wants in the responses of other identified persons themselves seeking the satisfaction of their contingent wants; rulers are not persons with substantive wants, they are office-holders with powers and obligations concerned with the observance of a procedure. Nor are such orders 'managerial' utterances addressed to role-performers in a joint enterprise in which rulers and ruled together seek joint satisfactions. Rulings are commands issued in pursuance of *lex*, but *lex* is not the rule-book of an enterprise. They are concerned with the conditions of self-disclosure prescribed in *lex* and they are concerned with them at the point where they are not only considerations to be subscribed to in acting but have become a requirement addressed to an identifiable agent to act or to desist. Generally speaking, this point is reached only when there has been a delinquency, putative or determined by an adjudicator.

In short, rulers are not managers, arbitrators between the claims or merits of conflicting interests, *largitores* or patrons of preferred interests. And *cives* in respect of being ruled are not role-performers in a common enterprise or claimants of advantage on account of the merits of their chosen adventures in self-disclosure. Civil rulers rule 'subjects', and 'subjects' are *cives* in respect of their relation to the authorized custodians and administrators of *lex*. And ruling, in its indifference to the merits or otherwise of substantive self-disclosure and self-enactment, is an engagement *sine ira et sine studio*.

Ruling, then, in the civil condition is not itself an enterprising or a 'managerial' engagement and in being ruled *cives* are not partners in an enterprise or seekers of the satisfactions of their wants. Nevertheless, rulers, in order to enjoy the wherewithal to exercise their authority, unavoidably seek imagined and wished-for satisfactions in the responses of some others. They engage in enterprise (they manage bureaux) and enter into relationships which are of an entirely different kind from that of ruler and subject: those of master and servant, employer and employee, manager and subordinate in an undertaking, director and he who does his bidding, owner and bailiff or tenant, consumer and purveyor, *seigneur et homme*. Of course, in doing so they are not ruling; they are merely joining to the exercise of their office an ordinary transactional engagement such as that in which all agents seek the satisfaction of their wants and receive whatever responses they are able to evoke from other such agents. They are seeking what they

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cannot demand from subjects (i.e. a substantive service of some kind, such as that of a clerk or a prison warder), and they are offering in return what a ruler as such cannot provide (i.e. a substantive recompense).[1] Thus, in the same manner as *cives* in respect of being also agents concerned to satsify their wants enter into relationships which are not themselves *civica*, rulers also enter into relationships which are ruled but not constituted by *lex* and engage in activities which are not themselves *regia*; they hire employees. And if the relation of ruler and subject, and that of *cives* to one another, is distinguished by calling it a 'public' relationship (meaning thereby that it is both constituted and ruled by *lex*), then the relationship in which rulers, in order to rule, seek imagined and wished-for satisfactions from certain of their subjects (e.g. their assistants, their secretaries, or their servants) is a 'private' relationship—a relationship ruled but not constituted by *lex*.

No doubt, in the case of a ruler, an echo of his public office may be heard in his private 'interest' as a manager, an employer, a customer, or an owner, and he may even flourish his *majestas* in the market-place, claiming special exemptions such as non-liability for certain torts in relation to his employees. But, if in virtue of his being a ruler such exemptions were conceded in *lex*, the private relationship would not have itself become public, it would merely be ruled by public considerations alleged to be appropriate to rulers. If, on the other hand, a ruler's 'lordship' were allowed to invade, to usurp, or even to colour his rulership, if a transactional

[1] The historic vocabulary of European association has been enough of a vocabulary of civil association to recognize this, although not unequivocally. Lordship (*dominium*) related indistinguishably to the conditional ownership of a landed estate and a jurisdiction over those who worked it. It denoted a managerial engagement: a domain was an estate to be exploited for what it would yield. But, although a ruler was also a lord in respect of his own domain and enjoyed dues and services in respect of his overlordly relationship to inferior lords and thus acquired the wherewithal to rule, regal authority was not itself *dominium*. It was not a managerial engagement related to an estate and the conduct of tenants, but an engagement to rule a realm and to provide 'justice' to 'subjects'. And although the administration of justice yielded profits, it was not itself a profit-making enterprise. Where the resources of a ruler's lordly domain and the dues from his dominial rights were insufficient to finance the exercise of his *dominium regale* (as they always were) additional revenue was sought from and by agreement with his 'subjects'. But to levy taxes upon 'subjects' did not convert the realm into a domain; 'subjects' did not thereby become partners in an enterprise, they became official partners in ruling in much the same way as, in their capacity of jurors, they became partners in the administration of justice, and were later to become official partners in legislation.

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relationship were substituted for that of ruler and subject, and if being 'ruled' were to be identified with being the retainer of a 'lord' concerned to do his bidding in return, then rulers and subjects and civil association itself would have disappeared from the scene.

In the civil condition, 'private' and 'public' refer to relationships, not to persons, to performances, or to places. And they meet in every substantive engagement: the private 'interest' in its success and the public concern that it shall not be pursued without taking account of considerations (specified in *lex*) which are indifferent to its success or failure. And this is no less the case in the substantive transactions of rulers with their servants than it is in those of *cives* with their servants or partners in business. Enterprise, seeking the satisfaction of wants, cannot be in this sense 'public', no matter who is concerned. And while all rulers in the exercise of their offices unavoidably seek the satisfaction of wants, none is an enterpriser or the manager of an enterprise in respect of being a ruler. Rulers may employ clerks but they rule subjects. Thus, if ruling were itself to be understood as the deliberation, the choice, and the execution of a 'policy' in which the substantive resources of the ruled (their attention, their energy, their time, and their wealth) are compulsorily or contractually enlisted, in whole or in part, in a joint undertaking or series of such undertakings of which the rulers are the 'managers', then it could have no place whatever in civil association. It would be the substitution of 'lordship' for rulership, of demesne for realm, of role-performer for subject, and of transactional relationship for civil association.

This invasion of 'public' by 'private', of ruling by lordship, may, indeed, be recognized (somewhat equivocally) as a contingent situation which may emerge in the history of a civil association, and not as a direct denial of the civil condition, when the common concern that the prescriptions of *lex* shall be acknowledged is circumstantially transformed into a substantive purpose. Thus, when a civil association is threatened with dissolution or destruction, or when (in a lesser emergency) *cives* are deprived of the shelter and the amenity of a civil order in such circumstances that judicial remedy is unable to restore the situation, the common concern may become a common purpose and rulers may become managers of its pursuit. But if there is civil virtue in this response to a threat of dissolution, there is also equivocation. For rulers to become man-

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agers even of an undertaking such as this and for subjects to become partners or role-performers in a compulsory enterprise association even such as this, is itself a suspension of the civil condition. *Inter armis silent leges.*

8. The civil condition, then, is association in terms of a moral practice; that is, a manifold composed of the rules of conduct which constitute the conditions to be subscribed to in the diurnal intercourse of *cives* and of the conditions entailed in these conditions: rules and procedures for deliberating and declaring the meaning of *lex* in contingent situations; the rulings of adjudicators and administrators in which substantive performances are required from assignable *cives*; the penalties in which these demands are enforced or failure to meet them purged and the disabilities or non-recognitions assigned to inadequate subscription; the institutions of adjudication and rule; the arrangements of offices of authority and their several constitutions, powers, obligations, duties, procedures, and conventions; rules delegating the authority to make rules; rules and procedures for altering, repealing, consolidating, and making *lex* and the apparatus of record and proclamation; rules in terms of which rules may be validated; and at the boundaries some miscellaneous considerations, including perhaps, agreements, treaties, covenants, etc. negotiated and entered into with the rulers of other such associations, which bear upon the conduct of *cives* with varying degrees of remoteness. In respect of this practice *cives* and subjects are not joined as comrade expeditionaries in a communal adventure of self-disclosure, or in some notional and banal agreement to be equally advantaged or not unequally disadvantaged in the enjoyment of a common substantive satisfaction, but in that relation of somewhat 'watery' fidelity called civility. And, for the convenience of having a name for this system of conditions, I shall call it *respublica*: the public concern or consideration of *cives*.

Thus, *respublica* does not define or even describe a common substantive purpose, interest, or 'good'. It cannot itself be an object of want, although where it has to be defended against dissolution or destruction it may temporarily and equivocally become an agreed common want, as mere 'survival' may become a want but only in circumstances of threatened extinction. It is not a suppositious sum of all approved purposes, a purpose which remains

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when all competing purposes have cancelled one another, or one which represents a consensus or harmony of purposes from which discordant purposes have been excluded, or one upon which all or a majority of associates are agreed, or any other such imagined, wished-for and sought-after substantive condition of things. Nor is it a 'policy' composed of 'managerial' decisions and constituting a strategy or a tactic in terms of which a common purpose might be contingently pursued. It is not a schedule of awards of advantage or disadvantage to interests or a scheme for the distribution of the burdens of being associated. On the contrary, it is a manifold of rules and rule-like prescriptions to be subscribed to in all the enterprises and adventures in which the self-chosen satisfactions of agents may be sought. And while there may be performances in respect of which these conditions are an inconsiderable care, there is none which in principle is immune from their jurisdiction and none which is merely a subscription to what they prescribe.

But the civil condition is not only relationship in respect of a system of rules; it is relationship in terms of the recognition of rules as rules. And our concern now is to understand what it is to be related in this manner. I shall begin by considering two important manners of recognizing rules which it excludes.

First, the rules which constitute *respublica* may be recognized in terms of approval or disapproval of the conditions they prescribe. They cannot, of course, be approved or disapproved as fit or unfit means for achieving a substantive purpose because civil association excludes such a purpose. They may, however, be thought (some or all of them) to be 'good' or 'bad' rules, to be 'fair' or 'unfair', to be reasonable or unreasonable in respect of the conditions they prescribe, and they may be judged to delineate an acceptable or a not so acceptable image of civility. And the considerations entailed in such judgements will be investigated later. But association in respect of such approval is not relationship in terms of rules recognized as rules but in terms of agreement about theorems which are the analogues of these rules. A rule is a prescription of conditions of conduct and not merely the index of the conditions it specifies. And since it cannot be denied its character as a rule on account of a disapproval of these conditions, it cannot be recognized in its character as a rule by approval of them. *Cives* are, or may be, concerned with the recognition of *respublica* in terms of the desir-

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ability of the conditions it prescribes, and, as we shall see, there is a specific engagement in which they express this concern; namely, politics. But this cannot be the recognition which constitutes the terms of civil association.

Secondly, the rules of *respublica* may be recognized in terms of the consequences of subscribing or not subscribing adequately to the conditions they impose; that is, in terms of the power of rulers to confer the benefits of recognition, to exact penalties, to impose disabilities, to incite and (if the latitude be allowed) to compel subscription. In this recognition, civil conduct is not being understood as anything so crude as conduct controlled by the 'will' of a potentate. It distinguishes rules from the sporadic threats and commendations of an overseer. And it is not concerned with motives for subscribing to rules: hope or fear. Nevertheless, association in respect of the resources of rulers to detect and to penalize deviations from rules, to assure redress for injury, or to reward compliance with effective and valuable recognition is not association in terms of the recognition of rules as rules but in terms of prudential theorems about the consequences or likely consequences of subscription or non-subscription to rules. Rules are not rules in virtue of the sanctions attached to them or in respect of the power of rulers to exact penalties or to refuse recognitions. And to be associated in terms of expectations about the consequences of subscribing or of not subscribing to rules is not to be associated in terms of the recognition of rules as rules.

The recognition of *respublica* which constitutes civil association is neither approval of the conditions it prescribes nor expectations about the enforcement of these conditions; it is recognizing it as a system of law. What relates *cives* to one another and constitutes civil association is the acknowledgement of the authority of *respublica* and the recognition of subscription to its conditions as an obligation. Civil authority and civil obligation are the twin pillars of the civil condition.

Recognizing the authority of *respublica* is not finding its conditions to be desirable or believing that others better informed than oneself have approved of them: it does not concern the merits or otherwise of the conditions. And if the ambiguous word 'consent' is used in this connection, then it is consent to *lex* and its jurisdiction, not approval of the conditions prescribed. Nor is it the recognition of a

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utility, or a declaration of trust that *respublica* will turn out to have convenient consequences, or an expectation that its conditions will be exacted or that they are difficult to escape: it has nothing to do with future events. Nor is the acknowledgement of an obligation to subscribe to the conditions of *respublica* an undertaking or a promise to do so: the obligation is not denied or repudiated in neglecting to subscribe or even in a deliberate refusal to subscribe, but only in a refusal to be obligated. And here again, if such expressions as 'contract' or 'covenant' are used they must be purged of their suggestion of an enlistment which commits to a performance; they serve only to remind us that civil association is an intelligent engagement and not a so-called 'pattern of behaviour', and that what is constituted in this recognition of *respublica* is relationship in terms of a practice.

The authority of *respublica* is, then, a postulate of the civil condition. But since the tie of civil association is continuous assent to this authority, being able to ascertain what it is that has authority may become an explicit engagement. This is not the speculative engagement it would be if it were concerned with the merits or otherwise of the conditions prescribed, with the power of rulers to compel subscription, with calculating the likelihood of escape from this compulsion, and with the benefits likely to accrue from subscription, or if it entailed the identification of a sovereign 'will' or an ultimate norm of norms as its source; but it is not beyond the reach of doubt and dispute. And knowing how to ascertain it is knowing how these uncertainties may properly be resolved. *Respublica* as a system of law, however, has resources of its own for unravelling the uncertainties it throws up and we need not look outside it for their resolution until these resources are exhausted. Indeed, it is a virtue of *respublica* that it contains rules in terms of which the authority of other rules may be recognized, and the recognition of its authority begins in what may be called the recognition of the validity of its prescriptions.

This self-authenticating property of *respublica* needs no great elaboration. The authority of rulings and of administrative requisitions is recognized in terms of the rules which permit them to be made and which specify their jurisdiction. The authority of an office lies in the rules which constitute it and endow it with powers and duties and is to be recognized in terms of those rules. The authority of the occupant of an office, his right to exercise its

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powers, is the licence he acquires in coming to occupy it according to the rules of a prescribed procedure of appointment or succession. The authority of legislators to make, to amend, or to repeal *lex* is recognized in the rules which specify the conditions to be subscribed to in order to occupy the office, and the *lex* they declare is recognizable as authentic law in having been enacted in subscription to a prescribed procedure and in the exercise of powers conferred in this procedure. And judicial amplifications of the meaning of *lex* in contingent situations are themselves law in virtue of having been concluded and declared by licensed office-holders in accordance with the conditions of their office and on account of rules which specify the jurisdiction of precedents.

Thus, the attribution of authority to a rule is not a matter of choice but of subjecting what purports to be authoritative to a certain test and giving reasons for a conclusion; and *respublica* itself provides reasons which, because it is composed of rules, must themselves be rules. There may be rules of conduct such that they cannot (or cannot readily) be used to validate other rules; the rules, for example, which specify the primary conditions of the intercourse of *cives*. But all civil rules are conditions to be subscribed to in conduct, and there is none (not even a *lex regia*) which is exclusively a rule for the recognition of the authority of other rules. There is no place in civil association for any but a conditional distinction between so-called 'private' and 'public' law. Nor can there be a single ultimate rule of recognition, an unconditional and unquestionable norm from which all others derive their authority: a 'constitution' not subject to interpretation and immune from inquiry. Where validation of the authority of a rule is an explicit engagement it is, then, an inquiry which moves up a scale of authorizations. It may present the inquirer with alternative routes; there may be passages where his concern is to rebut the contention that there is no link rather than to demonstrate a connection; there may be lacunae, because no *respublica* can be perfectly systematic; it may be arrested at any point which yields a contingently satisfying conclusion; and in principle it may continue until no further utterance can be wrung for *respublica*. In short, the validity of *lex* is a matter to be decided in terms of the resources for decision which *lex* itself provides.

But this manifestly falls short of a theoretically complete account of the matter. The recognition of the authority of items of

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respublica in respect of their validity is a conditional recognition and it must be understood in terms of its conditions; namely, the authority of *respublica* itself. And in considering this we must go beyond what the component rules of *respublica* can themselves provide. Nevertheless, we are still concerned with authority and with civil authority, and perhaps it will not be thought unduly extravagant to notice once more what this categorially excludes.

First, authority cannot be attributed to *respublica* in virtue of what can exist or be achieved only in the recognition of its authority. Thus, *respublica* cannot be authoritative on account of its providing shelter from some of the uncertainties of a human life. The civil condition, no doubt, supplies an ingredient of restraint and formality indisputably valuable to human beings who, whatever the magnitude of their generous impulses, remain prone to carelessness in the recognition of the choices of others, who are apt to harm one another deliberately or inadvertently, who are vulnerable to violence, and whose trespasses sometimes receive the encouragement of gratifying rewards, thus providing them with that small amount of compulsory civilization without which their transactions would often be distressingly precarious and their lives more irksome and less enjoyable. But this cannot be a reason (let alone the reason) for recognizing the authority of *respublica*: civil association can provide these blessings only on account of this recognition. Similarly, authority cannot be attributed to *respublica* on account of its prescriptions being subscribed to on most occasions by most *cives*, for this circumstance requires as its condition a recognition of authority. Or, if this common conformity is ascribed to the efficacy of the sanctions attached to these rules, then that also is conditional upon their authority being recognized.

Secondly, *respublica* cannot be acknowledged to have authority on account of its being recognized to have some other valuable quality or attribute, and it cannot be denied authority in virtue of the lack of such other quality or attribute. Thus, it cannot be alleged to have authority on account of being identified with a 'will' of any sort, that of a ruler, a majority of *cives*, or a so-called 'general' will. Nor can the authority of *respublica* lie in the identification of its prescriptions with a current 'social purpose', with approved moral ideals, with a common good or general interest, or

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a 'justice' other than that which is inherent in *respublica*;[1] civil association has no such common purpose, and the attribution of authority does not postulate approval of the conditions it prescribes. Further, civil authority (the authority of legislators or of administrators, for example) cannot be derived from their purported access to 'scientific' information about the tendencies of human actions to promote the general happiness[2] or about so-called 'laws of historical development'. And the recognition of civil authority is not to be understood as deference to a trusted few who may be supposed to have such information or to be concerned with acquiring it. Nor, again is there any place in civil association for the charismatic authority of a leader: apart from charisma being 'wisdom' and therefore not authority, civil rulers are not leaders, their subjects are not followers, and *respublica* is not authoritative on account of being a schedule of inspired 'managerial' decisions. And if a 'higher' law is postulated such that the authority of *respublica* is conditional upon a correspondence with it, this 'law' (if it is to serve its theoretical purpose) must itself be shown to have *authority*: mere rationality or wisdom will not do.

But, putting these and other distractions on one side, the attribution of authority to *respublica* and the postulate of the evidential procedure in which the validity of its items may be determined, are nothing other than the acknowledgement of *respublica* as a system of moral (not instrumental) rules, specifying its own jurisdiction, and recognized solely as rules; that is, as conditions to be subscribed to in conduct and binding to consideration independently of their origin or likely or actual outcome in use and of

[1] This, of course, includes not merely *lex* justified (i.e. validated) in terms of *lex* but the other attributes intrinsic to association in terms of non-prudential rules, such as: the quality of legal subjects; rules not arbitrary, secret, retroactive or awards to interests; the independence of judicial proceedings (i.e. all claimants or prosecutors, like defendants, are litigants); no so-called 'public' or 'quasi-public' enterprise or corporation exempt from common liability for wrong; no offence without specific prescription; no penalty without specific offence; no disability or refusal of recognition without established inadequacy of subscription; no outlawry, etc., etc.: in short, all that may be called the 'inner morality' of a legal system.

And there is, of course, no place in civil association for so-called 'distributive' justice; that is, the distribution of desirable substantive goods. Such a 'distribution' of substantive benefits or advantages requires a rule of distribution and a distributor in possession of what is to be distributed; but *lex* cannot be a rule of distribution of this sort, and civil rulers have nothing to distribute.

[2] Cf. John Austin: *The Province of Jurisprudence Determined* (1832), Lecture III.

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approval of what they prescribe. This authority cannot be acquired in a once-and-for-all endowment but only in the continuous acknowledgement of *cives* who are familiar with the distinction between recognizing a rule and subscribing to its conditions, discerning its utility, or giving approval to what it prescribes.[1] And should it be asked how a manifold of rules, many of unknown origin, subject to deliberate innovation, continuously amplified in judical conclusions about their meanings in contingent situations, not infrequently neglected without penalty, often inconvenient, neither demanding nor capable of evoking the approval of all whom they concern, and never more than a very imperfect reflection of what are currently believed to be 'just' conditions of conduct may be acknowledged to be authoritative, the answer is that authority is the only conceivable attribute it could be indisputably acknowledged to have. In short the only understanding of *respublica* capable of evoking the acceptance of all *cives* without exception, and thus eligible to be recognized as the terms of civil association, is *respublica* understood in respect of its authority.

The counterpart of civil authority is not civil obedience, but civil obligation. The rules which constitute the civil condition may be good, bad, or indifferent (although they cannot have these qualities in instrumental relation to a common purpose), they may be more or less effective in evoking conduct which adequately subscribes to them, they may be old or recent, they may or may not have been expressly enacted, and so on, but their property as rules, their

[1] A somewhat distant, but not so remote as to be uninstructive, analogue may be found in the authority acquired by the committee of the M.C.C. over the rules of cricket. The Marylebone Cricket Club is a private club which, when it was founded in 1787, had little to distinguish it from many other such clubs. But in the course of about a century it came to be recognized as the custodian of the rules of cricket and the court of record (so to say) whose imprimatur is necessary for any change in those rules. This was an acquisition of authority, for the club never had any 'power' to enforce its decisions. This authority was not acquired by succession to an office of authority previously held by some other occupant; office and occupant were coeval. Nor did it come by any act of authorization. It was acquired merely by being acknowledged to have it. The earliest acknowledgement, it seems, was as a court of arbitration in respect of disputes about wagers on cricket matches; but gradually, in steps some of them distinct enough to be recorded, it acquired its present authority over the rules of the game. It retains this authority in the continuous recognition of those concerned that it has it; and this authority will lapse when it ceases to be recognized. It has nothing to do with the recognition of the desirability of the rules or with the constitution of the committee.

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associative attribute (so to say), is in respect of their being known (or ascertainable) and in respect of their authority. And to be related in terms of the acknowledgment of the authority of *respublica* is a relation of obligation. My concern, then, is to distinguish civil obligation as the mode of relationship which constitutes the civil condition; and after what I have said about authority I may be brief.

Obligation relates to rules; civil obligation relates to *respublica* and consequently to the intercourse of *cives*. Rules, however, do not specify choices or actions; they prescribe conditions to be used in choosing and acting. And in being related to rules obligations denote, not performances, but conditions to be used in choosing performances. An obligation can be discharged only in a substantive action, but it is never an obligation to perform a substantive action. To have an obligation is not to be relieved of the necessity, or to be denied the opportunity, of choosing what to do or to say, and to fulfil an obligation is always to make a choice. This choice is neither choosing the rule to be subscribed to, nor is it choosing to fulfil an obligation; it is always a choice to perform an action which subscribes to the conditions specified in a rule. In being obligatory conduct does not become non-optional, it becomes conditional.

But to have an obligation means not merely a relationship to a rule, it also specifies the relationship; namely relationship to its authority. Or alternatively, the word 'obligation', or the expression 'I ought . . .', denotes a reason, distinguished from all others, not for acting, but for subscribing to the conditions specified in a rule; namely, because it is acknowledged to be a rule. Thus, to say that an action was performed in fulfilment of a promise does not describe or account for the action; it merely distinguishes it as the fulfilment of an obligation by indicating its relation to the accepted rule that promises should be honoured. The expression 'civil obligation', then, invokes the authority of *respublica* as the reason for complying with the conditions it prescribes, and what this excludes is hardly in doubt.

To have an obligation to subscribe to the conditions prescribed in *respublica* is not to be identified with having a feeling of being obliged or constrained, or even with a belief that one ought to do so; obligations subsist independently of any such feelings or beliefs. And while it is clearly a mistake to identify civil obligation

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with a habit of obedience (rules are not responded to in acts of 'obedience' and habits are not reasons), it is no less a mistake to identify having such obligation with membership of an association in which such obligations are usually fulfilled. Obligations cannot be extinguished by non-fulfilment, whether it be that of one or many, and they are not denied even in refusal to subscribe.

Nor is civil obligation a matter of the choice or the consent of him who is obligated. An agent may choose to undertake an obligation. In a transaction aimed at an imagined and wished-for satisfaction he may make a promise and thus put himself within the jurisdiction and under the authority of the rule that promises should be honoured. But although he does this in a chosen transaction and as a chosen means for achieving a chosen purpose, and although he can fulfil his obligation only in a chosen action which subscribes to its conditions, he does not choose the terms of the obligation; he merely employs them as a device for achieving his purpose.

Civil obligations, however, cannot be undertaken in this manner. The civil condition is not association in transactions for procuring the satisfaction of wants, and *respublica* is not a schedule of devices for undertaking obligations to be employed when they are favourable to the projects of *cives*. On the other hand the terms of a civil obligation may be chosen by legislators. But the authority of legislative enactments lies neither in their terms nor in these having been chosen; it lies in the authority of the procedure in which they were enacted. And the obligation to subscribe to their terms derives from their authority and can have nothing whatever to do with having taken part in the deliberation in which they were determined. Further, having an obligation to subscribe to the conditions of *respublica* is not to be confused with being induced to subscribe out of fear of the penalties or disabilities of non-subscription. Having an obligation and fearing a penalty are wholly different reasons for responding to the conditions prescribed in a rule, and civil obligation bears no relation at all to the power of rulers to exact penalties or to deny recognitions. And just as rules are not authoritative in virtue of the conditions they prescribe being approved, so having an obligation is not to be identified with such approval. Lastly, obligation to subscribe to the conditions of *respublica* is not to be identified with the recognition of these

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conditions as appropriate or necessary means to the achievement of a social purpose or a common good. The civil condition is not association for the pursuit of a common purpose, and *respublica* is not a current set of 'managerial' decisions, nor is it the rule-book of such an association.

Authority and Obligation are reputed the severest and most compelling of the rulers of human conduct. Remote, mysterious, cold, and insulated alike from consent or dissent to their demands, clothed in pitiless majesty, they ask neither to be loved nor to be approved. They rule (it is said) by laconic injunctions which offer no reasons and allow no argument, subjects who are required to be obsequious rather than faithful and to whose fortunes they are indifferent. And it is scarcely odd that these stern but unenthusiastic ogres should be recognized as an affront to human dignity; the surprise is that they should have been thought (e.g. by Rousseau and others) to be acceptable if only their injunctions were 'always right', whatever that may mean. But, of course, these despots are the invention of caricature and bear little resemblance to civil authority or civil obligation. It is true that authority and obligation do not argue or ask to be approved, that they have no room for the specious utterances of public relations officers, and that they are incurious of the beliefs and the substantive engagements of their subjects. But their prescriptions are not expressions of 'will' and their injunctions are not orders to be obeyed. Nor are their subjects servile role-performers; the conditions of even the least ambiguous duty can be fulfilled only by a 'free' agent choosing what he shall do. But if civil rule is not argumentative discourse, what takes the place of this is *lex*, not *voluntas*. And the distinctive quality of civil freedom, the recognition given in *civitas* to moral agency, springs from civil association being rule and relationship in terms of authority and obligation in contrast to the not less genuine, but wholly different, freedom which belongs to enterprise association.

To be related in terms of a common purpose or interest and in respect of the 'managerial' decisions which constitute its pursuit or promotion is to be associated in terms of substantive performances to procure jointly approved satisfactions. Thus, a member of an enterprise association is bound to common substantive action in pursuit of an agreed common purpose; he is free because his situation is a choice of his own and because he can extricate himself

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from it by choosing to do so. For him to be associated in the performance of joint actions contingently related to a common purpose and not to have chosen his situation for himself and to be unable to extricate himself from it by revoking this choice, would be to have severed the link between belief and conduct which constitutes moral agency. Freedom here is conceptually tied to the choice to be and to remain associated.

The civil condition, on the other hand, is not relationship in terms of any common purpose and *cives* are not joint enterprisers bound to one another in an agreed choice of wants to be satisfied and of 'managerial' decisions about how to satisfy them. It is relationship in terms of a system of *lex* which prescribes, not satisfactions to be sought or actions to be performed, but moral conditions to be subscribed to in seeking self-chosen satisfactions and in performing self-chosen actions. These conditions do not demand the approval of those whose conduct they concern and they are not devices allegedly necessary or advantageous in the pursuit of chosen satisfactions. And *cives* are related solely in virtue of their acknowledgement of the authority, not the desirability, of these prescribed conditions. There is, then, nothing in civil association to threaten the link between belief and conduct which constitutes 'free' agency, and in acknowledging civil authority *cives* have given no hostages to a future in which, their approvals and choices no longer being what they were, they can remain free only in an act of dissociation. Civil freedom is not tied to a choice to be and to remain associated in terms of a common purpose: it is neither more nor less than the absence of such a purpose or choice. Its theological analogue is the freedom enjoyed when God is understood to be a 'law-giver' and the believer is not only necessarily left to subscribe to his obligations as best he may but can do so only in self-chosen actions, in contrast to a divine Will to which he must submit himself and his conduct or join the party of the devil, or to a divine Purpose to which his conduct willy-nilly contributes.

9. Civil association is relationship in terms of the acknowledgement of the authority of the manifold of laws and law-like conditions which constitutes *respublica*. But these conditions are eligible to be recognized in terms other than those of their authority, and I propose now to consider the recognition of them

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in terms of their desirability; that is, in terms of approval or disapproval. This will entail going over some of the ground already trodden, but from a different point of view.

The acknowledgement of the authority of a rule does not entail the recognition of the desirability of the conditions it prescribes; indeed, it leaves unasked (and therefore unanswered) the question of approval or disapproval. Consequently, the obligations of *cives* in respect of *respublica* do not forbid the consideration of the desirability of the conditions they prescribe; they disallow only the substitution of either of these considerations for the other. Moreover, where these conditions are understood to be alterable, and where there are known procedures in which they may be deliberately enacted, changed, or terminated, *cives* are invited to think of them in terms of approval or disapproval. And the engagement I am now to consider is that in which *cives*, not merely recognize *respublica* in terms of the desirability or otherwise of the conditions it prescribes, but deliberate upon them in these terms, either imagining and wanting them to be in some respect different from what they are and recommending and promoting a change from what is to the imagined and allegedly more desirable condition, or approving and defending them against projected alteration on the ground of the superior desirability of their current condition to this or any other proposed change.

This engagement is not, of course, to be identified with civil association; to be *civicus* is not itself to be related to others in the enterprise of reconsidering and amending the conditions of association. And so far from repudiating it, this engagement postulates the authority of *respublica*. Nevertheless, like ruling and the relationship of ruler and subject, this engagement is unique to civil association; that is, it relates to that which distinguishes civil from all other modes of association.

The prescriptions of prudential procedures employed in transactional relationships of agents seeking the satisfaction of wants in the responses of others are human inventions and consequently they may be considered in respect of their desirability. And some such procedures may even have custodians with authority to entertain proposals to change them and to declare deliberate alterations. But what is here being considered in terms of approval or disapproval and perhaps altered is not that in virtue of which the agents concerned are associated; it is merely a means to their

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ends. They are related as seekers of substantive satisfactions and in terms of choices and chosen responses to actions, and these procedural devices are either used or put by (often in *ad hoc* agreements) in consideration of their promise of utility in the transaction concerned. Their desirability or otherwise is merely their propensity to favour or to obstruct the achievement of wished-for satisfactions.

And this is also the case in enterprise association. The associates are related in terms of their choice to pursue a common purpose and of their continuous agreement upon a 'policy'; that is, upon 'managerial' decisions concerned with the actions and utterances in which, from time to time, this purpose shall be pursued. Their rule-book (if any) is subordinate to the undertaking; its prescriptions may not only be used but also considered in respect of their desirability and perhaps altered after deliberation, and their desirability or otherwise is their propensity to promote or to hinder the success of the enterprise.

In respect of relationship in terms of a morality the situation is somewhat different. The norms and prescriptions specifying the conditions of morally good conduct are not devices related to the pursuit of imagined and wished-for substantive satisfactions or to the achievement of a chosen common purpose; they are themselves the terms of moral relationship which has no extrinsic substantive end. Nevertheless, they may be considered in respect of their desirability and they may suffer modification or even extinction by ceasing to be held important or obligatory, or merely in not being observed. Indeed, a critical moralist (such as an Athenian sophist) may lament filial piety as an affront to human dignity, he may deride integrity, ridicule valour, scorn chastity, and express measured disapproval of humility, and in doing so he may attract the support of an admiring audience. But there is no custodian of moral sentiments to whom he and his supporters might present a petition calling for the repeal or modification of the disapproved 'virtues', no procedure in which other allegedly more desirable norms of good conduct might be enacted in their place, no way in which such deliberation and advocacy might terminate in an authoritative legislative act. And this is not a merely contingent lack which the appearance or the appointment of a *custos morum* might correct. The recognition of a moral virtue is itself the approval of the conditions it specifies for conduct; these conditions

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may be forgotten or neglected, but to dislodge them is nothing other than a withdrawal or qualification of this approval.

Cives, on the other hand, are not related in procuring the satisfaction of wants or in the pursuit of a chosen common purpose but in acknowledgement of the authority of the conditions prescribed in *respublica*, and in this respect their relationship is a moral association. But the terms of their relationship are rules whose recognition as rules does not entail the approval of the conditions they prescribe. Authority and approval are distinguished. And since these rules, or at least some of them, may have been deliberately enacted and thus have emerged from considerations of desirability, they are notably eligible to be inspected and to be considered in terms of approval or disapproval. Moreover, this engagement of considering the desirability of the conditions of conduct prescribed in *respublica*, of imagining and wanting them to be in some respect different from what they are, and of recommending and promoting a change from what is to the imagined and allegedly more desirable condition is one which may have an outcome in a deliberate change. There are known procedures in which it may be undertaken and in which its fruits may be harvested in authoritative declarations. In short, this engagement to consider the desirability or otherwise of the conditions prescribed in a practice where the practice itself (and not any desire to procure a substantive satisfaction) is the terms of association and where these conditions are susceptible of deliberate change, has none but a distant analogue elsewhere than in civil association and may be counted unique to the civil condition. I shall identify it, in terms of its characteristics, as 'politics'.

This identification, of course, entails the rejection or putting-by of much that belongs to fashionable doctrine, but it is absolved from arbitrary conceit not only in returning the word (after an adventurous career) more nearly to its original meaning but in its connection with common usage. There is no loss in relinquishing the aberration in which the word 'politics', being made to stand (among much else) for a going-on among ants, bees, rooks, and baboons as well as human beings, or for a genetic, psychological, or sociological 'process', ceases to distinguish any intelligent engagement of human conduct. And we forego only muddle in laying aside the unfortunate dissipation of meaning when the word 'political' is used to denote the deliberations, the utterances, and

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the actions of an agent negotiating the responses of another in seeking an imagined and wished-for satisfaction or advantage for himself, or when it stands for the deliberation and negotiation in which agents agree to associate in the pursuit of a common purpose. We do not need the word 'politics' to distinguish the engagement of satisfying wants whatever they may be, and it is only in vulgar parlance that this engagement is said to be 'political' when it is undertaken with notable sagacity, or craftiness; so-called 'politic' conduct.

But wherever there is association for the satisfaction of wants there may be connected with it a contingent engagement and relationship, usually intermittently indulged, for which the word 'politics' has commonly been used. Thus, in the expressions 'matrimonial politics', 'factory politics', or 'the politics of a tennis club' what is being distinguished is not the engagement itself as an adventure in procuring a substantive satisfaction (it is not being suggested that playing tennis is itself 'political') but the concern that the adventure shall be pursued subject to certain contingent considerations and the activity of caring for this concern and keeping these considerations in trim. These considerations may be uses and conventions which belong to a practice or they may be formulated as rules of conduct, and they may range from conditions of amenity to important considerations of general desirability. They need not be exclusive to a particular relationship or association; caring for them (that is, recognizing and considering them in terms of their desirability) is taking time off from the pursuit of the enterprise; and those who make it their business to care for them are often those least deeply engaged in this enterprise. This I regard as a metaphorical use of the word 'politics'. It identifies an engagement analogous to that in which the prescriptions of a *respublica* are understood and deliberated in terms of their desirability, are imagined to be in some respect other than they are, and their alteration is negotiated or resisted, but it is different not merely in scale but on account of it being a secondary and contingent engagement of persons who are, and who recognize themselves to be, already associated in another manner; namely, in performances for procuring substantive satisfactions. And my reason for identifying this engagement as 'politics' properly speaking only when it is undertaken in regard to the *respublica* of civil association is that there only is it concerned with what itself constitutes the association.

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In considering the engagement to deliberate the conditions prescribed in *respublica* in terms, not of their authority but of their desirability, to imagine them different from what they are and to undertake or to resist their alteration, we are concerned with politics properly speaking. And this is how I shall use the word. As an undertaking to bring about or to prevent a projected change in *respublica* it is an agent expressing a want which (like all wants) may be satisfied only in another's performance. Or, alternatively it is utterance or action whose imagined and wished-for outcome is another responding to it in the wished-for manner. And where it is a joint undertaking it is agreed utterance or action which seeks the substantive response of others. In this respect politics is a private engagement in which an agent or an association of agents bargains with others to satisfy a want. What distinguishes it, in the first place, is the respondent addressed; namely, those who have the authority to make or to refuse the recommended change in *respublica*: the occupants of legislative office. Politics, thus far, is private persons (that is, persons without authority) negotiating with holders of offices of authority.

Like every other utterance or action of *cives*, political utterance and action are public in respect of being subject to conditions prescribed in *respublica*. And some of what are loosely called political institutions are the specification of civil conditions to be subscribed to in deliberating and promoting changes in the constituents of *respublica*. But political engagement is public also in a manner peculiar to itself; namely, in being explicitly and exclusively concerned with *respublica*. That is, it is distinguished in terms of the want to be satisfied. For the want it expresses is not merely that another (a legislator) should respond in a wished-for performance, and not at all that other ascertainable agents should provide a satisfaction by performing wished-for actions, but that all *cives* should have a civil obligation which they do not already have or should be relieved (or partly relieved) of a current civil obligation. Political action or utterance is action or utterance whose imagined and wished-for outcome is not another or others responding in a wished-for performance but is a rule which prescribes conditions to be subscribed to by all alike in unspecifiable future performances.

Political engagement, then, is an exploration of *respublica* in terms

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of the desirability of the conditions it prescribes, and this entails a relationship to *respublica* which is at once acquiescent and critical. The ingredient of acquiescence is assent to its authority. Without this there can be no politics; for, to deny it is not merely to refuse to subscribe to the conditions specified in *lex*, it is to deny civil obligation and thus to extinguish civil intercourse and with it the possibility of reflecting upon its conditions in terms of their desirability. Dissent from the authority of *respublica* is giving notice of a resolve to terminate civil association, and genuine dissentients are either secessionists who design to place their investment in civil intercourse elsewhere, or they are disposed to destroy the civil condition in civil war.[1] And whoever embarks upon either of these courses has renounced politics in favour of exile or subversion.

The ingredient of criticism, of questioning, and of non-acceptance is concerned with approval or disapproval and with desirabilities. But this also relates exclusively to *respublica* and therefore to *bonum civile*. Thus, engagement in politics entails a disciplined imagination. It is to put by for another occasion the cloudy enchantments of *Schlaraffenland*, the earth flowing with milk and honey and the sea transmuted into ginger beer, it is to forswear the large consideration of human happiness and virtue, the mysteries of human destiny, the rift that lies between the aspirations of human beings and the conditions of a human life, and even the consideration of the most profitable or least burdensome manner of satisfying current wants, and to focus attention upon civility; that is, upon a practice of just conduct and upon the conditions which should be required to be acknowledged and subscribed to under threat of civil penalty or sentence of civil disability. Nor is politics concerned either with the worth of civil association itself (this relates to the authority of *respublica* and is not called in question), or with the desirability or otherwise of an entire system of civil conditions, for there are no criteria in terms

[1] Civil wars may emerge from disapprobation of particular demands of *respublica*, but they are denials of authority. It was not the doings of the Federal Government which Robert E. Lee impugned, but its authority to do them; it was not the virtue or the reasonableness of Charles I's rule which Sidney Godolphin defended with his life, but its authority. An approximation to the condition of civil war appears when, in a dispute over the desirableness of some provision of *respublica*, subjects use their allegiance as a bargaining counter, as, for example, the magnates of the realm did in their dispute with King John in 1215.

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of which this might be deliberated. Nor again, is it the feeling that current civil conditions are not generating enough warmth and the urge to poke the fire. It is holding up to inspection in terms of approval or disapproval some item, large or small, of *respublica*, considering more desirable alternatives to it and recommending and promoting the change from what is to the alleged more desirable condition.

Politics is thinking and speaking about a rule of civil intercourse which has been notionally resolved from being an authoritative prescription into a conclusion in order that what it prescribes may be distinguished from its authority and thus be made available to be considered in terms of its desirability; or it is thinking and speaking in order to reach a conclusion which may then be transformed into a rule by an authoritative act. And if this seems to impose upon politics an implausibly circumspect character, let it be remembered that I am not concerned with what may go on in the head of a politician but with the ideal engagement of considering the desirability of rules where rules and not purposes are the terms of association and where rules are recognized to be deliberately alterable. Nothing I have said excludes from politics the inadvertence and the folly (to say nothing of the crookedness) commonly to be expected in human affairs. Thinking about rules in a manner which assents to, but (because it is concerned with desirability) does not refer to, their authority may be done well or ill.

As a deliberative and an argumentative engagement directed to reaching conclusions sustained by reasons designed to persuade others of their cogency, politics is identifiable not in terms of persons, places, or occasions, but only in respect of a focus of attention and a subject of discourse. The conditions of a *respublica* may exclude certain officials from the more overt forms of political activity, and they may allow for the election or appointment of certain persons to devote themselves to political deliberation and negotiation; but, although some will be better equipped to do it than others, there is nothing in the engagement itself to suggest a profession and much eloquently to deny it. A man deliberating a change in *respublica* may wish to consult others, and one who has deliberated may wish to enlist the support of others for his conclusion. But while there is nobody who must be consulted, it is

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only the most desperate innovator for whom utterance anyhow is imperative (the wall-scribbler or Miss Emily Davidson) or the most careless, who are indifferent to their audience. Thus, he will address himself persuasively to those whose agreement or concurrence is material to the success of his enterprise, soliciting their favour, enlisting them as partners, mobilizing their energies, and rehearsing before them the arguments he thinks to be convincing. This is his immediate audience. But he speaks always over their heads; his utterances are addressed, in the last resort, to those who in virtue of the public office they occupy have authority to do what he proposes should be done.

And there is nothing in the engagement itself which calls for or excludes particular places or occasions. It is a public activity in that there may be civil conditions to be subscribed to in pursuing it and on account of its concern with *respublica*, but there is nothing to require that it should be done in a so-called 'public' place. And when Aristotle identified it as an *agora* activity it was not to give it an exclusive venue but to distinguish it from the discussion of the affairs of a tribe and from the management of an estate. And further, although it is an inherently intermittent activity, liable to become vexatious when pursued incessantly by persons who speak

> As if arrangements were intended
> For nothing else but to be mended,

it cannot be a once-and-for-all engagement. It was in a flight of fancy that the *Federalist* writer urged his contemporaries to bend themselves to the completion of their political task so that succeeding generations might be undistracted in their devotion to the arts of civilized living. 'Cette fois il faut en finir' was the utterance of a military commander, not a politician.

In all this politics is categorially distinguished from ruling. Ruling in a *civitas* is a diurnal engagement, the concern of persons who occupy offices; and its utterance is authoritative and not persuasive. Deliberation and argument are not, of course, absent from civil rule, and particularly not from adjudication; but there they are concerned with the meaning of *lex* in contingent situations, not with the desirability of the conditions it prescribes. Ruling is distinguished from politics in being a relationship to *respublica* which both assents to (indeed, asserts) and refers to its authority. The adjective 'political' cannot properly qualify 'rule'; it does not

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identify a particular kind or manner or ruling, nor does it distinguish a certain sort of constitution of a ruling authority or a certain procedure for constituting or recognizing the validity of an office of authority.

Nevertheless, rulers may participate in politics. There may be civil conditions to be subscribed to, but rulers cannot be excluded from the deliberation of *respublica* in terms of approval or disapproval. But, as in their exercise of lordship, they must put by their *majestas* and thus notionally vacate their offices, in order to participate. And where there is an assembly both deliberative and authoritative it may be expected that the categorial difference of engagement will be marked by a difference of procedure and that the summary of reasons which may preface the enactment of *lex* (for example, the preamble to a statute) will be clearly distinguished from the rule enacted. Nor is it inappropriate for civil rulers, on occasion, to speak to their subjects informatively, persuasively, or defensively when in the arrangements of the association they owe them an argumentative account of the desirability of what they intend to do or of what they have done, and thus enter the realm of quasi-political discourse. But they cannot rule politically; and civil association is absent or adjourned when they seek to do so.[1]

[1] The common confusion between politics and rule is, in some respects, a legacy of the Aristotelian vocabulary, which has no word for 'civil' distinguished from 'political'. In this vocabulary *politike* stands for the art of caring for and bettering the public concern of a *polis*. And the somewhat hazy distinction between this engagement and that of ruling is reflected in the equivocal character of the *politikos*, concerned (it would appear) both in *politike* and in ruling. But *politeia* is a deeply ambiguous word. It stands for that in terms of which a *polites* is related to his fellows (with perhaps an emphasis upon rules in their character as rules of recognition); it denotes the rule of a *politikos* distinguished from that of a master (*despotes*); and it designates the constitution of a particular kind of ruling authority, namely, one which is a mean between democratic and oligarchic rule, 'polity'. Thus, the word is given a place in the vocabulary of ruling which, unlike its fellows in that vocabulary (e.g. democracy or monarchy), it is etymologically ill-equipped to occupy. This somewhat confused usage, translated into Latin, later reappeared in such expressions as *princeps politicus* (Ptolemy of Lucca) meaning either a ruler who rules by law (*rex*) and neither by arbitrary decree (*dictator*) nor by virtue of lordship (*dominus*), or a ruler who holds office by election, no matter how he rules. And Sir John Fortescue identified the ruling authority in the England of his time as *dominium politicum et regale*. This usage had a long subsequent history in which the word 'political', when used to qualify a ruling authority, gradually lost any cogency of specification it may once have had and became a term of general commendation or of denigration. The converse confusion, where a word from the vocabulary of ruling is used to qualify 'politics', appears in the bastard expression 'democratic politics'.

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'Rulers' who design to purchase the assent of their subjects to the authority of *respublica* by the argumentative recommendation of the desirability of its prescriptions, by instigations to subscribe, by negotiation with those of their subjects who are disposed to disapprove (and there will always be such), by bribes or benefactions, by cajolery, by indistinct promises of better things to come, by reproach, encouragement, dissimulation, or foreboding, in short, by the exercise of the art of persuasive leadership, have ceased to be rulers and have become managers and there is no place for them in civil association. In this, the only genuine *political* 'rule', civil association is corrupted by having imposed upon it what is appropriate only in enterprise association concerned with the satisfaction of wants where the terms of association are agreements about what is to be done, where the recognition of the desirability of doing it is what constitutes the association, and where 'leadership' is the means of sustaining this agreement. And in this confusion of the obligation to subscribe to the prescriptions of *respublica* with approval of the conditions prescribed civil freedom is compromised to the verge of extinction.[1]

Politics, then, is concerned with an imagined and wished-for condition of *respublica*, a condition in some respect different from its current condition and alleged to be more desirable. It is deliberation designed to specify and find reasons for, utterance designed to recommend and give reasons for, and action designed to promote the change from the one to the other. And political proposals together with the reasons in terms of which they are recommended may be recognized and distinguished from projects of some other sort in respect of this consideration: in order to be recognizably 'political', a proposal together with the reasons for it must relate to a possible condition of *respublica* and to nothing else.

There is, of course, much that this necessarily excludes, and I have noticed some of it already: benevolent plans for the general betterment of mankind, for diminishing the discrepancy between wants and satisfactions or for moral improvement cannot, as such, be political proposals. But, coming closer to the matter, proposals for awards of benefit or advantage to ascertainable individual or

[1] On a mountain track in the Epirus a Greek peasant was furiously beating his laden donkey. When asked why he did so, for the animal seemed to be going well enough, he answered: 'Yes, but he does not want to.'

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corporate interests claimed on account of the merit, the bargaining-power, or any other alleged property of such interests clearly declare themselves not to be political proposals. And such claims are not merely contingently excluded from political discourse; they are necessarily excluded by the character of *respublica*. This public concern of civil association is not a schedule of current awards to interests or of arrangements designed to promote meritorious or preferred substantive satisfactions and to suppress or to discourage others, and consequently it cannot even entertain (much less satisfy or deny) such claims advanced for such reasons. And such claims advanced for other reasons are claims of another sort: there are no floating reasons related to no claims in particular.

Thus, civil rulers, and in particular legislators whose business it is to enact changes in *respublica*, cannot be patrons of powerful, preferred, or otherwise meritorious interests because the *respublica* of which they are the custodians cannot concede or even accommodate such claims. It is a system of rules which are not awards to interests or devices for procuring the satisfaction of wants or for settling conflicts between divergent interests by arbitrating claims for recognition or advantage, and the reason for amending *respublica* can never be the claim of an interest for benefit or advantage.[1]

This, of course, does not mean that a political proposal may not emerge from a frustrated effort to procure a satisfaction, from a disadvantage which has, perhaps, festered into a profoundly felt grievance, from hindrances experienced in the pursuit of laudable enterprises, or from an imagined advantage that has become the focus of a compelling ambition to procure it: there is, indeed, no want which may not set going a project to change *respublica*. Nor does it mean that no benefits or advantages accrue to assignable interests from the conditions or changes in the conditions pre-

[1] Bentham cannot be regarded as anything but a very capricious theorist of civil association, but in one memorable passage he contends that a 'vote' (that most elementary of all political instruments) should not be regarded as a 'usufructory possession' by one who is entrusted with it. What he oddly calls 'the dilemma', he says, is clear: 'if you do not mean to discharge it conscientiously, you ought not to be entrusted with it. If you do, it is of no benefit to you' —or, one must suppose, to any corporate interest you may be joined in promoting. The satisfaction of wants is not a relevant reason for recommending civil change. But, of course, he spoils it all by contending that the voter is 'entrusted' to vote for something he calls 'the *interest* of the community' which (for Bentham) cannot, as such, be voted for by anybody, and for me does not exist. *Rationale of Punishment* (1830), pp. 305–7.

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scribed in *respublica*: the Judicial Proceedings Act (1926) imposed a grave disadvantage upon journalists and the readers of Sunday newspapers, every piece of legislation has an outcome of advantage to a legal profession, and beyond doubt laws determining civil liability do allocate the cost of damage between assignable agents. What it means is that a proposal which may begin in a want, a wish for a benefit, or a plea for the removal of a disadvantage must lose this character and acquire another (a political character) in being understood, advanced and considered as a proposal for the amendment of the *respublica* of civil association. Indeed, a political proposal may be specified as a proposal about which there is something to be thought and said other than what may be thought and said in terms of benefits sought by ascertainable interests or in terms of the merits of these interests, and political deliberation and utterance is thinking and speaking in terms of these other considerations. And a prescription of *respublica* is understood in its proper character only when it is recognized as a condition imposed upon conduct totally indifferent to the advantage or disadvantage it may have for any interest.

I do not propose to set out in tedious detail the entailments of this recognition of political deliberation as an engagement concerned with the desirability or otherwise of the authoritative prescriptions of *respublica* and with nothing else, but one other may be noticed here; namely, that a proposal to prescribe as a rule that a certain opinion, theorem, purported statement of fact, doctrine, creed, dogma, or the like be believed to be true or false, or that certain conduct be believed to be morally right or wrong or be believed to be organically beneficial or harmful to human beings, cannot be a political proposal.[1] This exclusion is not a matter of contingent legislative policy (e.g. a reluctance to require of subjects subscription to conditions not clearly necessary for civil association) and therefore something which might be set aside in certain circumstances; nor is such a rule objectionable merely on account of being an affront to civil freedom; nor is it merely pru-

[1] For example, that the earth is flat, that incest is morally wrong, that no such person as Trotsky ever lived, that the Pope is Anti-Christ, that the descendants of Ham are genetically different from the descendants of Japhet, that tobacco-smoking is the chief cause of cancer of the lung, that all history is the history of class struggle, the Malthusian equation, the theory of biological evolution, James I's doctrine of Kingship as set out in the *Trew Law of a Free Monarchy*, etc.

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dential limitation appropriate because of the difficulty of discerning whether or not such a rule were being subscribed to on any occasion and the difficulty of enforcing adequate subscription or of determining a penalty; nor again is it objectionable on account of any doubt or hesitation there may be about the truth or error of the theorem or doctrine. Such a proposal is excluded from politics because such a rule is incompatible with the character of *respublica* as a system of rules to be subscribed to in conduct. *Respublica* is not a system of theorems alleged to be true or offering themselves to be accepted on trust, and what is loosely called 'believing on authority' (that is, deferring to the opinion or judgement of another believed to be better informed than oneself) has no place whatever in that relationship between a subject and *lex* which constitutes civil association.[1] The counterpart of civil authority is civil obligation, and there cannot be an obligation to acknowledge the truth or the falsity of a theorem or a doctrine. There is not even an obligation to believe the prescriptions of *lex* to be desirable or to approve them. 'Obligation' of this sort, if it belongs anywhere, belongs to enterprise association (a church, for example) where associates may be related in terms of the common recognition of substantive desirabilities or 'truths' and where (if this recognition lapses) the association is dissolved. Of course, political utterances may contain purported statements of fact and expressions of moral sentiment or conviction, but a political proposal may be specified as one about which there is something to be thought and said other than what may be thought and said in terms of fact or moral conviction, and political deliberation and utterance is thinking and speaking in terms of these other considerations.

But, if the engagement in politics cannot be that in which

[1] John Austin, in spite of a determined attempt to distinguish legality from all other considerations, understood a state to be an enterprise association the purpose of which was to maximize the general happiness. He seems to have thought that the authority of law derived from the relation of rules of law to correct information about what conduced to the general happiness and that a subject's acknowledgement of the authority of law was, ideally, deference to a legislator's superior knowledge of the conclusions of an inductive science of happiness, but that (owing to the somewhat primitive condition of this science) it was in fact deferring to the opinion of those whose knowledge was only marginally more reliable than his own. *The Province of Jurisprudence Determined*. Lecture III. In short, like Bentham before him and like some of the most judicious of his successors, he was unable to distinguish authority from either 'truth' or 'desirability'.

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interests clamour for benefit or advantage or that in which alleged facts, theorems, or moral convictions are proposed for recognition in a schedule of awards miscalled *respublica*, nor can it be caring for or promoting a so-called general interest or orthodoxy of belief articulated in the provisions of *respublica*. Such a general interest or orthodoxy may be understood as the sum of all currently approved interests or beliefs, or as a distinguishable and enduring common interest or doctrine, or as a lowest common denominator of belief; and it may be identified in terms of a general happiness, aggregate economic growth, or a substantive righteousness of conduct. But however it is understood or identified it must purport to be the common purpose or substantive 'good' in pursuit of which the associates are related. And in doing so it imposes upon the civil condition the character of enterprise association, upon *cives* the character of joint enterprisers (or believers), upon *respublica* the character of a schedule of 'managerial' decisions and interpretative rulings contingently related to a common purpose, and upon politics the character of deliberation and recommendation concerned with the choices in which this common purpose should be pursued; and all this is a denial of civil association. And, in addition, this view of the matter attributes to civil association the anomalous character of enterprise association in which the purpose pursued and the performances in which it is pursued are not the joint choices of all the associates and from which none can extricate himself merely by choosing to do so.

Politics, then, is deliberation and utterance concerned with civil desirabilities; that is, with approval or disapproval of the conditions prescribed or prescribable in *respublica*. And this *respublica* is the articulation of a common concern that the pursuit of all purposes and the promotion of all interests, the satisfaction of all wants and the propogation of all beliefs shall be in subscription to conditions formulated in rules indifferent to the merits of any interest or to the truth or error of any belief and consequently not itself a substantive interest or doctrine. The concern of this engagement is twofold: first, that the authoritatively prescribed conditions of civil conduct shall also be civilly desirable and that where this is held not to be the case to urge those who have the authority to do so to bring it to pass by amending the rule or rules concerned; and secondly that *respublica* shall, so far as possible, adequately reflect what is currently held to be civilly desirable. In short, what dis-

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tinguishes political thought and utterance is its character as circumstantial deliberation about *respublica* in terms of *bonum civile*; that is, about the conditions *cives* should be authoritatively required to subscribe to and be constrained to observe.

This engagement is a deliberative and a persuasive or argumentative, not a demonstrative, undertaking. And I propose to end this essay by considering what this entails.

Political deliberation is, of course, conditional upon the postulates of human conduct and of moral and civil association, but these postulates are not axioms from which political conclusions may be deduced. The theoretical character of civil rules, for example, does not itself provide reasons why *this* rule should be preferred to *that* or why subscription to this condition and not another should be made a civil obligation. Nor are specific conclusions about the desirable conditions of a practice of civility deducible from theorems about the natural conditions of a human life, from theorems such as that a man is an organism with an urge to live rather than to perish and that he is ill-equipped to do so, or that there is a natural scarcity of the means of organic subsistence. The civil condition is not a shelter in which an organism is protected in the difficult exercise of its biological urge to survive or any other such organic impulse, and its terms are not desirable or otherwise in respect of providing or not providing such protection. It is a condition of human conduct, of agents who have wants and who are concerned with seeking imagined and wished-for satisfactions.

Nevertheless, civil prescriptions are not devices for procuring the satisfaction of chosen wants or for allocating mean satisfactions to competing agents; they cannot be deduced or inferred from these wants and they are not shown to be desirable in being exhibited as correct deductions. A rule obligating *cives* not to kill one another is not a conclusion to be inferred from the theorem that there is a common want (as distinct from an organic urge) to remain alive and a not uncommon disposition to use others with violence, and such a rule is not desirable on account of its promoting the satisfaction of this want or frustrating the operation of this disposition. A common desire to avoid indigence or to enjoy affluence is not a reason for a civil institution of property, and such an institution is not desirable or undesirable in virtue of being an efficient or an inefficient means to the achievement of this or any other substan-

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tive end. It is true that in the myth of Protogoras it was to a human race locked in internecine strife in its efforts to exploit and enjoy the resources of the world that Zeus sent Hermes to teach men how to be just to one another, but this hardly learned civility was not understood as a means to the satisfaction of any substantive want, even the common want to remain alive. And that it is likely to promote the satisfaction of a substantive want is not a reason for approving or for recommending a civil prescription.

Civil association is a moral condition; it is not concerned with the satisfaction of wants and with substantive outcomes but with the terms upon which the satisfaction of wants may be sought. And politics is concerned with determining the desirable norms of civil conduct and with the approval or disapproval of civil rules which, because they qualify the pursuit of purposes, cannot be inferred from the purposes pursued.

A civil prescription, then, cannot be shown to be desirable in virtue of satisfying a want or promoting a sought-after substantive outcome. But neither can its desirability be established by purporting to connect it inferentially with a superior norm of unquestionable or acknowledged desirability, a moral rule, a prescriptive Law of Reason or of Nature, a principle of utility, a categorical imperative, or the like.[1] And this is not on account of any doubt there may be about a rational or divine cosmic order of unquestionable worth or because the moral prescriptions (for example) from which civil rules are said to be deduced are not self-evidently desirable, but because inference of this kind is impossible: no civil rule can be *deduced* from the Golden Rule or from the Kantian categorical imperative.

And further, a civil prescription, current or projected in a political proposal, cannot be shown to be desirable in reasoning which purports to show it to be accurately modelled upon a general norm of moral conduct or to be a well-founded further determination of such a norm; and conversely, a *respublica* cannot be shown to stand in need of amendment or amplification on account of its

[1] It should be understood that I am not here considering the determination of the authority of civil prescriptions but the determination of their worth or desirability. I have spent some time distinguishing these two considerations, and I have already considered (and found to be empty) the arguments in which it is contended that the *authority* and validity of *lex* derives from its connection with organic urges, with human wants, with a common purpose, or with a 'higher law'.

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not prescribing conduct otherwise acknowledged to be wrong. A civil prescription which made adultery a criminal offence is not shown to be desirable if and because this conduct is acknowledged to be morally wrong; and if parents are recognized to have a moral duty to educate their children it does not follow that a *respublica* in which this duty is not made a civil obligation is thereby defective.

Civility, then, denotes an order of moral (not instrumental) considerations, and the so-called moral neutrality of civil prescriptions is a half-truth which needs to be supplemented by the recognition of civil association as itself a moral and not a prudential condition. Civil relationship is certainly a fiduciary relationship in which faithfulness is not a device for promoting the satisfaction of substantive wants; but it is not the faithfulness of friends. This does not mean that civil desirabilities are unconnected with more intimate moral relationships; it means only that what is civilly desirable cannot be inferred or otherwise derived from general moral desirabilities, that it is not necessarily a sign of something amiss if they are not found to be pulling in the same direction or even to conflict with such desirabilities, and that political deliberation and utterance (concerned with civil desirabilities) is concerned with moral considerabilities of its own.[1]

Nevertheless, the civil condition is not itself a norm from which conclusions about the components of a *respublica* and their desirability may be deduced or otherwise derived. It is an ideal character, identified in terms of characteristics and theorized in terms of postulates: briefly, the intercourse of agents in terms of their acknowledgement of the authority of a system of known and enforcible laws which specify the conditions of civil conduct, distinguished in particular from the intercourse of agents transactionally related in seeking the satisfaction of their chosen wants and from agents related in terms of the pursuit of a substantive common purpose and of the agreed 'managerial' decisions about how it shall be contingently pursued. This civil condition may itself be recognized as a desirable condition and perhaps to be

[1] Discussions of the discrepancy between moral conviction and the demands of law are apt to fasten upon dramatic cases which occur in associations (like that of National Socialist Germany) where the component of civil association is small to the neglect of genuine situations such as that displayed by André Chamson in *Roux le bandit*. The relation between moral conviction and civil obligation is admirably explored in Clarendon's essay *On Conscience*: Edward Hyde, *Miscellaneous Works*, 1751, pp. 162 ff.

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desirable almost regardless of the desirability or otherwise of the prescriptions of a *respublica*. And it may be (and has been) identified in general terms: *honeste vivere, alterum non laedere, suum cuique tribuere*. But these are not themselves *praescripta* from which the genuine prescriptions of its *respublica* may be inferred, nor are they criteria capable of pronouncing upon the desirability of any of the items of a system of *lex*. Nor is there a *summum bonum civile*, discernible to Civil Reason, from which impeccable conditions of civil intercourse and the rules in which they should be formulated could be inferred or otherwise derived. Nor again, is there a *cosmopolis*, discernible to Civil Imagination, the rules and arrangements of which provide wholly reliable and sufficient models for those of a *civitas*. And none of this is either surprising or exceptional: no moral reflection about desirable conditions to be subscribed to in conduct is of this character, and no moral conclusions may be drawn from such imaginary models.

The terms of a practice of civility, then, are not conclusions inferred from the postulates of civil association, from theorems about the so-called natural conditions of human life, from theorems about the dispositions of human character, from theorems about contingent human wants, purposes, and imagined satisfactions, or from theorems about 'social ideals' or so-called 'real social needs'; nor are they inferences from the norms of a current morality or of a purported Rational, Natural, or so-called 'critical morality', or from those of a pretended *summum bonum civile* or 'ideal justice'. And their desirability or worth cannot be argued in terms of their having been correctly inferred from or modelled upon any of these considerations.

But, on the other hand, they are not merely opinions, 'irrational preferences', or so-called 'subjective judgements of (civil) value' or interest. Nor are they 'mere acts of will'. No opinion, no judgement of fact or of worth is 'merely subjective'; no action or utterance is a 'mere act of will'. The subjective component present in all opinion (the bare *meum* or *tuum*) may on occasion be significant, but nowhere is it less significant than in considering the desirability of rules of civility. Norms of civil conduct, like other norms of conduct, are contingent choices which may have reasons but not causes and which are to be understood in terms of reasons capable of elucidating the alleged desirability (not the authority) of component prescriptions, current or projected, of a *respublica*. In short

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political proposals are conclusions, and whether or not they have been significantly deliberated, they are deliberative conclusions; and whether or not they are proposed and recommended in a persuasive argument, the utterances in which they are made known belong to the discourse of persuasion, not of proof. And a concern to understand politics is a concern with the considerabilities of political deliberation and utterance.

The subject in political deliberation is an ascertainable practice in use and the desirability of its component conditions. This practice is distinguished, in the first place, as a circumstantial practice of civil association. It is composed of rules recognized to be the conclusions of intelligent agents responding, deliberately or not so deliberately, to contingent situations while thinking in terms of civil intercourse. It is not the product of so-called 'social forces', of the 'subjective will' of inventors, or of Reason; and although it will certainly bear the marks of the contingent fortunes and the characteristic responses of those concerned, there is no illumination to be got from invoking a hovering *Volksgeist* as its author. A *respublica* is the work of local human intelligences and it is recognized to compose a more or less coherent system of rules. But, considering the provenance of any such system of rules and the circumstances in which it was put together, it cannot be expected to display any notable elegance or economy of design; nor can it escape being ragged at the edges, intimating situations to which it has no precise response. And it is recognized to be undergoing continuous modification in use and continuous amplification in judicial conclusions about its meaning in contingent circumstances.

But a historic practice of civil intercourse may also be understood in terms of some general theorems, of varying degrees of abstraction, about the conduct of *cives*: general legal concepts (such as those of a legal person, or a tort, a fault, a liability, a nuisance, a trespass, a negligence, care, an injury, an offence, a crime, etc.), general ideas about what constitutes civil conduct, and some even more general moral ideas (such as fairness and humanity) which have been 'civilized' by being given civil meanings. And all this has been elicited, mindfully but incidentally, from a practice of civil intercourse. And like the rules which compose the practice in use, these general ideas are understood to be subject to modification and their current conditions are recognized to be

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the transitory or not so transitory achievements of civil reflection.

Thus, the situation which presents itself to political deliberation, a practice of civil intercourse in use, is neither quiescent nor agitated; it is a situation of continuous responses to circumstances in terms of rules. And it is this situation which provides not only the subject of political deliberation but also the intellectual equipment available to be employed when critical attention fastens upon some small or large part of it and deliberate innovation is canvassed. There are some general ideas ready to be invoked, although they do not all pull in the same direction, but criteria of approval or disapproval untouched by contingency are necessarily absent. The desirability or otherwise of every proposed innovation must be argued in terms of the alleged defects of what is found wanting and the alleged virtues of what, on the occasion, it is proposed to leave unchanged. The anchorage of this deliberation and argument is a sea-anchor. Demonstrative conclusions are necessarily impossible; final solutions and alternative ideal systems of *lex* are persuasive subterfuges or corrupting delusions.

The considerabilities of political deliberation are, then, aids to reflection rather than indisputable criteria of choice. None can escape the characteristic conditionality of such deliberation, but that some are more solid than others can hardly be doubted. Three such may be noticed by way of illustration: the consideration that a civil prescription is undesirable if it be incapable of enforcement; that subscription to civil conditions should be required of performances only in respect of their capacity to harm other agents; that a projected innovation should be such that the *respublica* concerned can accommodate it.

The first of these considerations is unconditional only in respect of excluding the requirement of belief, and the reason for this veto is the impossibility of such a requirement being authoritative, not the impossibility of its enforcement. Otherwise it is no more than a conditional aid to reflection. A rule may be difficult to enforce if non-subscription to the condition it specifies is difficult to detect. But difficulty of detection depends not upon the kind of conduct concerned but upon the imperfections of the apparatus of detection at the command of rulers: little, it must be supposed, escaped notice in sixteenth-century Geneva. Thus, the undesirability here is not that of an inherently unenforceable law, such as Bentham frowned upon (there can be no such law), but that of a prescription

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which requires for its enforcement an apparatus of search and inquisition (itself a composition of civil prescriptions) such as to conflict with the norms of civil conduct written or plausibly tolerated by the *respublica*. One of the more relevant of Fox's criticisms of the Alien's Bill of 1792 was not that it prescribed conditions subscription or non-subscription to which was inherently undetectable, but that it prescribed what was undetectable without a great and arguably undesirable extension of the apparatus of detection.[1]

The second of these considerations was elevated by Mill into an unconditional principle: that self-regarding actions should be exempt from civil conditions; civil intercourse concerns only *operationes quae sunt ad alterum*. This was unfortunate, not merely because of the ambiguity of this classification of actions, nor because it at least nods in the direction of the error that the *purpose* of civil rules is to prevent, to penalize, or to compensate harm to ascertainable *cives*, but chiefly because it makes less useful a valuable aid to political deliberation. And it is recognized in its proper conditional character when it is restated in the following terms: that while there can be no action specified in terms of place (e.g. 'at home'), or circumstance, or consequence, or relationship (e.g. that of a man to his dog or to inanimate things), in principle exempt from civil conditions, civil intercourse recognizes a circumstantial privacy, beyond the formal autonomy assured to *cives* in civil prescriptions being laws and not surrogate choices of actions, which merits consideration.

The desirability of a prescription proposed for inclusion in a *respublica* being such that the *respublica* can accommodate it is here a substantive, not a formal consideration; it is not unlike the requirement that a judicial ruling must propound a meaning for *lex* which may be argumentatively related to the rule interpreted and to the system to which this rule belongs. If the system were without 'play' between its components, if it intimated nothing which it did not enunciate, or if this consideration were read as an unconditional principle, it would of course, prohibit innovation. But this is not the case with a *respublica*, or indeed with any

[1] Fox's two speeches against this Bill (in spite of some wayward and fanciful passages) are models of persuasive political deliberation and utterance. And the same is true of Pitt's responses. Both speakers understood themselves to be deliberating a rule of civil association, not the award of advantage or disadvantage to assignable persons.

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practice. As an aid to reflection what this consideration invokes is the 'toleration' of the *respublica* and the value of continuity and economy in political innovation. And it recognizes the superior cogency of a political argument when the 'fit' of what it proposes is acknowledged to be among the desirabilities—lest one good rule should destroy the coherence of the practice. In short, the consideration here is that what is being attended to and deliberately reformed in politics is a vernacular language of civil intercourse and that there are etymological decencies and syntactical proprieties to be taken account of even if they are themselves indirectly modified in the new expressions proposed for use.

For the most part, however, the considerabilities of political deliberation are not even plausibly unconditional principles. Every proposal for deliberate innovation in the conditions of conduct specified in a *respublica* is both an appeal to current achievements in civility and an exploration of the intimations of these achievements; and there is no mistake-proof manner of doing this. Nor is there any puzzle about how situations recognized to call for the exercise of political intelligence obtrude themselves; any change of circumstance or belief may generate them or push them to the surface, and a lively political imagination may recognize them before they are half over the moral horizon. And, of course, every adjustment of a *respublica* is a disturbance of the tensions which hold it together and is liable to bring thitherto concealed discrepancies to the surface. The political attention of a whole generation may be absorbed by a single intractable circumstance; and there are fashions in politics no less than in dress or disease. To choose what in this circumstantial flux should receive attention, to understand it in terms of its impact upon a practice of civil intercourse, and to deliberate the civil response to be made to it is the engagement of political intelligence. And although this engagement of caring for the conditions of a civil association may seem less demanding, as it is certainly less exciting, than that of deliberating the policy and conducting the affairs of an enterprise association, it calls for so exact a focus of attention and so uncommon a self-restraint that one is not astonished to find this mode of human relationship to be as rare as it is excellent.

10. As a mode of human intercourse the civil condition is an ideal character glimpsed here or there in the features of human goings-on,

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intimated in some choices and dispositions to choose and in some responses to actual situations, but it nowhere constitutes a premeditated design for human conduct. In an imaginative *tour de force* Aristotle discerned some of its important features in the Athenian *polis*, Cicero in the Roman Republic, Hobbes and Montesquieu in the emergent states of modern Europe. And in these obscure and ambiguous circumstances it is not surprising that its features have often been mistaken or ill identified. Etienne de la Boëtie excluded 'kings', others have included what they called 'democracy', and others, again, like Mill, have not known whether or not to include it, and there has been much idle chatter about 'capitalism', about 'brotherhood', and about 'love'. None of this, however, has anything to do with the matter. But here and there something like a character composed of more or less congruent features has been sketched. Some of these sketches have been visionary, which is unfortunate: whatever the civil condition may be it is not the New Jerusalem or Grace Abounding. Others, absurdly, have pretended to be engineers' drawings; and others, again, have implausibly purported to be 'realistic' portrayals of the contingent scene. But most of these draughtsmen did better than they knew, even Burke; and Hobbes, of course, did much more than draw a picture. The most difficult feature of the civil condition to identify and get into place has been law. This is not because there was not law in abundance to be observed and to be observed in use, and not only because this law was an exceedingly ambiguous mixture of rules of all sorts, of moral precepts and of imperatives and directives which were not rules properly speaking and from which it has been a supremely difficult task to disentangle and distinguish the law (not the rules of law) appropriate to the civil condition. It is made difficult also because the theorists of law have laid so many false trails (for example, misidentifying it as a 'command' and as instrumental to the achievement of substantive satisfactions), and have usually been so much more concerned with the so-called 'sources' of law, with contingent beliefs about its authority, and with its so-called 'purpose' than with what it is. Compared with this, the difficulty of identifying what I have called 'politics' has been less serious, the main obstacle to be got over being the pre-emption of the word to stand for a feature of modern European states which has no counterpart in civil association; namely, the consideration of 'managerial' decisions about the

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pursuit of a common purpose in contingent situations or the negotiation of advantages for private interests.

However, while he must acknowledge his debt to those who have delineated the character of civil association in terms of its features, the theorist is concerned to understand it in terms of its postulates and he must tread the ground trodden by moral philosophers and writers on jurisprudence. He will not lack guides. Most guides are confident that they know the way. The worst know only this; the best are those from whom we may learn also how to climb and are somewhat careless of the destination. And the marks of their teaching remain, even if long after we found ourselves to have learned what they never taught. For those interested in destinations, let me gather up the ideal character of civil association as I have understood it in terms of its postulates, a small composition of related ideas.

It is the idea of association as intelligent relationship enjoyed only in being learned and understood, distinguished (for example) from relationship in terms of propinquity, kinship, genes, or from organic or so-called 'social' integration.

The idea of association not in terms of affection, of a choice to be related in the pursuit of a common substantive purpose, or of conscription in such an enterprise, and not that of self-moved bargainers negotiating with one another for the satisfaction of their chosen egoistic or altruistic wants, but solely in terms of a practice or language of intercourse.

The idea of a practice as a composition of conditions, uses, rules, etc. which are neither commands specifying performances nor surrogate choices of conduct, and which are not devices for procuring satisfactions or for the successful pursuit of a common purpose, but are moral considerations specifying conditions to be subscribed to in choosing performances, indifferent to the wished-for outcome of any performance, and without any substantive purpose. A practice of 'good' conduct.

The idea of a moral practice, constituting a deliberately alterable system of law, and specifying the considerabilities of a distinguishable relationship of civility, which are not commands to be obeyed but conditions to be taken account of and subscribed to in choosing performances. A practice of 'just' conduct.

The idea of *cives*, persons associated neither in respect of a com-

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mon enterprise nor in procuring the favourable responses of others in seeking the satisfaction of their individual wants, but in terms of a practice or language of civil intercourse which they have not designed or chosen but within the jurisdiction of which they recognize themselves to fall and which, in subscribing to it, they continuously explore and reconstitute.

The idea of *civitas*, not itself an enterprise, an undertaking, an 'economy', or an educational or therapeutic organization, and not enterprisers or groups of enterprisers associated in seeking recognition or advantage for themselves in their undertakings, but an association of *cives*; a relationship of equals, and a self-sufficient condition in being relationship in terms of the conditions of a practice which are not used up in being used and not in terms of a substantive purpose or purposes to be pursued.

The idea of *respublica*, a practice of civility specifying, not performances, but conditions to be subscribed to in choosing performances, and therefore the common or 'public' concern, not the common purpose, of *cives*.

The idea of 'ruling' a *civitas* distinguished from 'managing' an enterprise, directing the pursuit of a common purpose, or commanding or persuading individuals to perform preferred actions or to entertain preferred beliefs, and distinguished from the exercise of 'lordship'.

The idea of 'subjects' distinguished from retainers, servants, pupils, pensioners, invalids, role-performers in a common enterprise, persons to be set to work or persons who owe substantive services or who are owed substantive recompenses.

The idea of 'public' distinguished from 'private', where all wants, choices, performances, satisfactions, property, and agency are recognized to be private and to be the responsibility of the chooser, the doer, or the owner, and all performances and all ownership are 'public' in respect of being required to subscribe to the conditions specified in *respublica*, and in no other respect. Here every situation is an encounter between 'private' and 'public', between an action or an utterance to procure an imagined and wished-for substantive satisfaction and the conditions of civility to be subscribed to in performing it; and no situation is the one to the exclusion of the other.

The idea of civil authority and civil obligation, of assent to authority distinguished from approving the conditions it requires

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conduct to subscribe to and from any consideration of the consequences (personal or general) of subscribing or not subscribing to these conditions; and of obligation to subscribe to these conditions distinguished from feeling obliged to do so, from being induced to do so from fear of a penalty or in expectation of a desirable outcome, from believing that it is in one's long-term interest to do so, from choosing, consenting to, or approving these conditions, from a habit of obedience, and (of course) from being persuaded, directed, or compelled to perform substantive actions.

The idea of civil freedom as the condition of being associated solely in terms of the recognition of the authority (not the choice or the desirability) of the adverbial conditions of conduct specified in *respublica*, distinguished from that of having chosen to be associated in terms of a common purpose and of choosing to acknowledge or not to acknowledge the performances in which this purpose is contingently pursued.

The idea of 'politics' as the engagement of considering the conditions specified in *respublica* in terms of their desirability and of recommending and promoting deliberate changes in these conditions, distinguished from deliberating the 'policy' of an enterprise association or from seeking the award of recognition or advantage in the pursuit of individual or corporate purposes or from ushering in the New Jerusalem.

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III On the Character of a Modern European State

Mon Dieu! qu'est-ce que ce monde.
Last words of M. de Cinq-Mars.

1. The somewhat novel associations of human beings which came to be called the states of modern Europe emerged slowly, prefigured in earlier European history, but not without some dramatic passages in their emergence. Each was the outcome of human choices, but none was the product of a design. The manners in which they emerged were as diverse as the local conditions from which they sprang were various. Some established themselves more rapidly than others, their fortunes were uneven, their durability unequal. They were like instruments whose resources awaited the explorations of yet unborn composers.

They emerged, each, as a piece of inhabited territory with a government: land, people, and ruling authority were coeval. This territory had boundaries which, in the course of time, came to be drawn ever more exactly upon accurate maps and to include (where appropriate) a specified area of 'territorial waters' and a similarly specified air-space above it. Here and there, in the early years, a territory of this sort was already marked out according to the conventions of the time. It corresponded to the realm of a medieval king, the estate of a Duke, a Count, a Margrave, a Landgrave, a Prince-Bishop, or to the territory of a semi-independent municipality. But, for the most part, the territories of modern states were newly delineated. They were the outcome of movements of consolidation in which local independencies were destroyed and movements of disintegration in which states emerged from the break-up of medieval realms and empires. They were constituted in conquest, rebellion, secession, the murder of heirs, multiple treaties, purchases, surrenders of rights to commercial exploitation, acts of parliaments, the intermarriage of ruling families, hereditary succession to estates thitherto unconnected, the extinction of palatine independencies, the consolidation of expired fiefs, and

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the falling in of feudal inheritances, and their boundaries were often the lines upon which contingent hostilities came to rest.

These movements have gone on from that day to this, without interruption: no European territorial settlement has lasted for more than a few years. And the rearrangement of territories has been as frequent an occurrence in the twentieth century as in any other of modern European history. There are some extraordinary survivals: the Grand Duchy of Luxemburg, the principalities of Monaco and San Marino, and the Republic of Andorra. And adverse circumstances frustrated the not inconsiderable promise of Burgundy and Navarre.[1] But all such survivals are vulnerable, and sleepers awake; as late as the nineteenth century the Midi might have become an independent state. The history of modern Europe is the history of Poland only a little more so. And few of the idioms of change in which the states of early modern Europe emerged have fallen into disuse: the United States of America and the Dominion of Canada were constituted in much the same manner as that in which the United Netherlands had emerged two centuries earlier: wars of secession, a civil war, treaties, purchases, settlements.

The inhabitants usually went with the territories; individual or communal choice were negligible occurrences; there were expulsions but they were rare. After many centuries of wandering to and fro, and a long period in which invasion and conquest were indistinguishable from migration and resettlement, the movements of European peoples had subsided. States which were to give little or no recognition of nomadic habits could hardly have emerged until European peoples had lost their migratory urges. And since the boundaries of modern states are notably arbitrary and inconstant, geographical features such as mountain ranges and rivers becoming less and less significant, their human component has always remained mixed and miscellaneous, in spite of the sporadic attempts of governments to impose something like homogeneity by massacre, expulsion, and suppression.

Each of the states which emerged in early modern Europe was composed of a variety of ancient communities with undying memories of other allegiances, of independence, or of mutual

[1] At the death of Philip the Good (self-styled *Duc de l'occident*) Burgundy was one of the premier realms of fifteenth-century Europe; and at the end of the century Navarre under the Dukes of Foix was distinguished for its independence.

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hostility, or made up of fragments of such communities severed by a frontier from their fellows, without a common history, without a common language, law, or coinage, divided from one another ethnically, in customs, and often in religious beliefs: persons in one degree or another deprived of their old identities and waiting to acquire new. Some of the states had the advantage of a connection with a historic realm, but in becoming states even these suffered notable modifications; and in any case medieval realms were to a marked degree notional. Only the smallest of these states, and these not the most durable, could recognize themselves as communities with any discernible antiquity. The states which have emerged in later times are no different in this respect from the earlier, except that they unavoidably include peoples who have memories, bitter or happy, of having belonged to other states. And those which have proved most durable have acquired as many and as great internal differences as they have lost. Even the English people, in spite of unique advantages, have never acquired more than an intermittent sense of being a single community, and since 1536 they have never alone composed a state; themselves manifold, they have been bound once to three restless partners and now to two.

Each of the communities which went to compose the states of early modern Europe had what may be called a 'civil' or 'private' law of its own, if in some cases it was not exclusively its own: the Europe in which these states emerged was a mosaic of laws, jurisdictions, and judicial procedures for the settlement of disputes about property and the transactions of everyday living. The ingredient of substantive law in these arrangements may sometimes have been small, but it was in these terms, more perhaps than any others, that such communities identified themselves. And although the notion of law was ambiguous, and has remained so, the inhabitants of early modern Europe were more familiar with relationship in terms of law than with any other. The emergence of a state was, in one important respect, the legal integration of the inhabitants of its territory and the transformation, by recognition and destruction, of local law and local courts into the law and the courts of a state. In some of the realms of medieval Europe this change had already gone some distance, but it has been an integration slow to be achieved and in some states never quite accomplished.

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A state, then (we may pause to notice), as it appeared in early modern Europe, was not, one may guess from its human composition, very promising material from which to constitute anything properly to be called a community. The most that might have been expected was that some day, with luck, it might discover some sort of precarious identity and manage to be itself. And this, indeed, is as much as even the most successful of them can be recognized to have achieved. There have always been people who have wished for more, who have wanted a state to be an integrated community set on a common course and pursuing a common purpose, and there have always been people who have feared the disintegration of the association and the self-alienation of its components if this were not the case, and we shall have later to consider these wishes and fears and their outcomes. But those who, under the spell of a supremely inappropriate analogy, have expressed their belief that more has already been achieved by speaking of the states of modern Europe as 'nation states', have confused their dreams with the conditions of waking life. All European states began as mixed and miscellaneous collections of human beings precariously held together, disturbed by what they had swallowed and were unable to digest, and distracted by plausible or fancied *irredènta*. And no European state (let alone an imitation European state elsewhere in the world) has ever come within measurable distance of being a 'nation state'.

If we put on one side such adventurers as Cesare Borgia with his private enterprise project of making a state out of the cities and territories of the Romagna (which came to nothing), a state as an assemblage under a Government of thitherto discrete territories and their inhabitants, or as the emancipation of an estate from feudal or imperial overlordship, was the work of persons who were already rulers; that is, of persons who were already recognized to have authority of some sort. And their first need was to acquire a title to rule appropriate to their new circumstances. If the new ruler were the king of a 'feudal' realm, he must win the recognition and the allegiance of his new subjects. If he had graduated from being a Count, a Duke, a Margrave, etc., his aim was to procure and enjoy the independent status of a *princeps* towards which his ambitions, his claim to *Landeshoheit*, and his reading of Roman law had for long enough directed him, and to get this status recognized by his subjects. In the enterprise of acquiring appropriate

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authority the new ruler was treading not entirely unfamiliar ground, but the novelties of his situation were considerable and not easily mastered. Indeed, as it has turned out, he was embarked upon an interminable enterprise; the engagement of constructing a state has remained a permanent ingredient of modern European government. It is an undertaking which has been reflected in five centuries of speculative thought remarkable both for the variety of its arguments and for the inconclusiveness of its outcome, and which comprises also the checkered constitutional histories of modern European states. For a 'constitution' is that in which rulers and subjects express their beliefs about the authority of a Government.

But a ruler who found himself responsible for the government of a state needed not only authority appropriate to his situation but also power, an apparatus of governing comensurate with his circumstances. Here also familiarity and novelty were mixed. There were procedures and devices already being taken into use by kings and dukes (particularly the Duke of Burgundy) and the rulers of medieval republics which were to become, with considerable but diminishing local variations, the new and characteristic apparatus of governing a state. Nevertheless, his situation called for continuous inventiveness. This enterprise of acquiring power has, however, achieved a greater measure of success than that in which authority was sought. It, also, has displayed itself in five centuries of speculative reflection, and it comprises the administrative histories of modern European states. For an apparatus of governing is that in which a ruler acquires and exercises power.

These two themes and histories lie to one side of my main concern, which is to consider what has been thought about the character of a modern European state and about the office (that is, the engagements not the constitution) of its government. But something more must be said about them in order to distinguish them from one another and to recognize their relation to what I am concerned with.

Most states as they emerged were ruled by a monarch, and this was no less the case with those which began with nominally 'republican' constitutions. Most of these monarchs extinguished those persons who could claim to be their partners in the exercise of authority or

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nobilities who by *jus feudorum* claimed to participate. And those monarchs who did not take this course, either incorporated themselves with the partners they did not evict (as in France and England), or (as in Bohemia, Hungary, and Poland) surrendered to their partners, postponed the transformation of their realms into states, and presided over anarchies incapable of resisting the destruction of their independence. Thus thoughts about authority were, for the most part, thoughts about the tenure of monarchs. But in the course of time all these monarchial constitutions were modified either by a rearrangement of the partners in authority, or by persons or assemblies of persons presenting themselves as new and alternative candidates for this exercise of authority: constitutional monarchies, novel 'imperial' or 'republican' or 'democratic' or 'popular' constitutions. These have been important changes, although most of them were already intimated in thoughts about the authority of rulers which go back to the fourteenth century. But they have always been more noticeable as expressions of dissatisfaction than for what they have asserted; they have never been more than inconclusive explorations in search of more convincing beliefs about the authority of rulers. And the history of authority in modern European states is evidence of the flimsiness, rather than a testimonial to the durability, of these associations of human beings.

The first business of a new ruler in a new state was to acquire authority by getting his new title (and himself as its holder) acknowledged by his subjects; and it was not an enterprise susceptible of rapid dispatch. Some sixteenth-century rulers began with considerable inherited assets (that they were often 'foreigners' was no handicap; so in most cases were many of their subjects) and they were, for a time, remarkably successful in this difficult adventure. All were aware of anarchy just below the surface, conspiracy and rebellion were endemic, civil war (which springs always from a denial of authority) often intervened. Even the De Facto Act of the second year of the reign of Henry VII recognized him only as 'the King and Sovereign Lord of this land for the time being'. Other rulers remained for long in a situation of extreme insecurity, or rapidly succumbed. The setting up of the Federal Government of the United States of America was a later notable example of this enterprise. It was conducted by men endowed with *civilis sapientia* to the degree of genius, it enjoyed large

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inherited assets of belief, but even so its path was crossed by rebellion and civil war.

Moreover, with every significant change in a constitution this task of acquiring authority had to begin afresh, often after the wanton destruction of valuable assets. For, while a constitutional change may be recognized as the expression of a tentative belief about authority, it becomes effective only when it is acknowledged in a spoken language of civil intercourse. In England, after the civil war and the interregnum of the Protectorate, relatively small innovations mediated novelties and nursed beliefs about the authority of government through not inconsiderable changes. But elsewhere most of the emergent constitutions failed dismally to acquire the sought-after recognition. Thus, of the two parvenu 'imperial' constitutions and five futile 'republics' of France, none acquired any durable authority. The authority of the numerous governments of Spain since the eighteenth century has been negligible: civil war has been almost continuous. And few of the governments of the many states which have emerged in the last century have won for themselves any but a very precarious authority. Italy has remained almost as divided as it was before it was 'unified'; the Republic of Eire has never emerged from a civil war; banditry has qualified government in Greece since its independence; there are few modern governments without subjects whose secret or even professed allegiance lies elsewhere: 'high' treason, *laesa majestas* (a crime which acquired a new meaning with the emergence of modern states), is a commonplace delinquency, now hardly noticed except in time of war. Nor is any of this surprising. The claims of governments to authority have been supported, for the most part, by the most implausible and gimcrack beliefs which few can find convincing for more than five minutes together and which bear little or no relation to the governments concerned: 'the sovereignty of the people' or of 'the nation', 'democracy', 'majority rule', 'participation' etc. And who, even if he could recognize himself as a member of the 'proletariat' and believed that a government had authority in virtue of its 'proletarian' composition or sympathies, could possibly connect this with the private enterprise usurpers, operators of the most fraudulent *coup d'état* of modern times, who have constituted the government of Russia for the past fifty years? Indeed, their only claim to have authority to rule this most

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miscellaneous of all modern states is the dwindling asset of being able to be mistaken for the legitimate successors of the Tsars, made plausible by their conduct, by their direct inheritance of an apparatus of government, and in the recognition they have received from other governments.

This conspicuous failure of most modern European states (and all the imitation states elsewhere in the world) to acquire governments with firmly recognized authority has provoked the belief that authority is of no account. Governments have become inclined to commend themselves to their subjects merely in terms of their power and their incidental achievements, and their subjects have become inclined to look only for this recommendation. Indeed, it is long since this rejection of the idea of authority began to infect our thoughts about the constitutions of governments. Most constitution makers and constitutional reformers in modern times have not been disposed to think of a constitution as that in terms of which a government may be acknowledged to have authority: they have confused it with the apparatus of governing and have recognized it merely as a piece of machinery for doing with the least opposition and delay whatever they thought proper to be done. And this has been reflected back into the past: hereditary monarchy, we are now told, was a prudential device to prevent disputed succession and an insurance against the turmoil of an interregnum. But, although achievements may win the approval of some, even of many, and arrangements be recognized in respect of their beneficial outcomes, and although the power of a modern government may often be irresistable, these are not the terms in which a government may be acknowledged to have authority.

This gross and now common confusion is apt to be concealed from us because the important words we use to denote beliefs about the constitutions of governments (and hence their tenure or authority) have become ambiguous by being used also to denote beliefs about the engagements and the achievements of governments.[1] Thus, the word 'democracy', which properly speaking

[1] Aristotle, who had words only for the constitutions of governments, found this difficult to avoid. But it was Montesquieu who inadvertently fastened this ambiguity upon the political vocabulary of modern Europe. He was concerned with what I have called the character of European states and the office of their governments, and he was one of the first writers to take this unequivocally for his concern. But, unfortunately the only words he knew for signifying characters were words which signified constitutions. For example, a 'despotism' (which

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signifies a manner of constituting a government and of authorizing it to rule, is used also to characterize particular acts or policies of a government or even certain kinds of private relationships and certain motives for acting. This is often a piece of political subterfuge: confident of the approval evoked when 'democracy' is used in its proper constitutional meaning, the word is made to qualify a performance or a policy with the expectation of evoking the same approval. But this confidence-trick is an emblem of ambiguity which has infected the vocabulary of all political discourse, and an 'authority' word escapes corruption only when it is safely laid to rest. Nobody will think he had said anything significant by way of approval or criticism if he said of the Statute of Uses that it was a 'divine-hereditary-right' sort of measure for a government to enact, whereas many would think (incorrectly) that they had said something significant if they said that non-contributory old-age pensions, or legal aid for the poor, or compulsory 'comprehensive' education was 'democratic'.

Modern European reflection about the authority of governments has been extensive; it has often been ingenious and sometimes profound, but at the practical level it has not flattered the 'civil prudence' of European peoples. The constitutional histories of European states have some brilliant passages; but, for the most part, and not unexpectedly, they have been the stories of somewhat confused and sordid expedients for accommodating the modern disposition to judge everything from the point of view of the desirability of its outcome in policies and performances and to discount legitimacy. But in relation to the subject of this essay, what is important to understand is that considerations about the authority of government do not identify the *office* of government or the character of the association governed, and that beliefs in terms of which these may be identified are not such as to be capable of endowing a government with authority. I am concerned with what has been thought and said about the character of a modern European state as an association of human beings and about the office or engagements of its government.[1]

for Montesquieu was an ideal type of government with no European representative) was not, for him, a government authorized in a certain manner to rule, but one apt to appeal to a certain disposition in its subjects (namely, fear) and of which they could expect certain kinds of actions.

[1] At the Council of Basle the Conciliarists contended that the authority to rule the Church should belong to the General Council and that the Pope should be

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The 'power' at the disposal of the rulers of the new states of modern Europe derived from an apparatus of governing which they slowly accumulated. It was an apparatus composed of Councils, Commissions, Committees, Secretaries of State, advisers, professional administrators, tax-collectors, clerks, constables, spies, and agents of all kinds, together with the *bureaux* in which they worked, their expertise, their routines, the inquiries they conducted, the information they collected, and their ability to retrieve it from their records when it was required for use. It emerged from the rudimentary administrative and police apparatus of medieval kings and municipal governments, it was often copied from the procedures and devices of business undertakings, and it has been continuously enlarged and improved by the successors of the first rulers of modern Europe: there is no generation of rulers in the five centuries of modern European history which has not added something to this apparatus.

Thus, the current governments of Europe may be said to be 'powerful' in virtue of being able to formulate their designs clearly and to make them known in utterances which reach and are readily understood by all those concerned, to enlist continuous support or to compel continuous acquiescence, to act rapidly, economically, and with the likelihood of achieving the wished-for outcome as little hindered as may be by the intrusion of unwanted consequences. And they have acquired this 'power' in having settled and guarded frontiers to their areas of authority, marked upon accurate maps, which none may pass without scrutiny and perhaps only by permission; military forces easily mobilized and supplied with uniform and effective equipment; large police forces equipped with the most up-to-date *matériel*; book-keeping, banking, and monetary techniques which enable them to collect the revenue they are authorized to collect and to live in permanent debt; control over the issue of money and credit; literate subjects upon whom the duty of reading notices and filling in forms may be imposed with some confidence, among whom utterances (whether of command or persuasion) may be freely disseminated, each of whom may be required to carry *documenti* and may be identified

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demoted to the office of Rector (i.e. administrative officer of the Council), and their opponents deplored any such constitutional change. Neither side committed the enormity of confusing this with a dispute about the proper engagements of the ruler of the Church.

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with certainty by means of names, signatures, photographs, fingerprints, etc.; a ready supply of paper and ink and the records (of births, deaths, marriages, addresses, incomes, occupations, etc.) which spring up whenever paper, ink, curiosity, or ambition are joined; Ministries, offices, files, filing cabinets, and collections of statistics; the telegraph (which in the last century enabled Abdul Hamid to massacre his Armenian subjects with incomparable efficiency), the telephone, broadcasting, the Holerith machine, the computer, and the microphone.

But the 'power' now at the disposal of governments (in virtue of which the least powerful of them has the means of more effectively achieving its designs than the most powerful of any earlier time) merely reflects the vast increase in modern times of the ability to control men and things. This apparatus of governing is no more than the participation of governments in the procedures, devices, and inventions which have immensely increased the availability and reliability of information, the rapidity of communication, and the certainty with which the outcome of actions may be forecast, all of which is at the disposal of anyone who can afford to use it. It is shared, according to their means and their choice, by all governments regardless of their constitutions; its availability has nothing to do with the manner in which a government is authorized to rule. No reconstituted government in modern times has ever, by reason of its reconstitution, abated its claim to use the apparatus it inherited from its predecessor, although items fallen into disrepute (such as a secret police or inquisitorial methods of inquiry) have sometimes been temporally put by. But a usurper who acquires command of it is not thereby endowed with the authority to rule, and the authority of a legitimate ruler is not diminished if he has only a meagre apparatus of governing at his disposal.

On the other hand, however, the characters attributed to a state as an association of human beings and to the office of its government are closely related to this apparatus of governing. Of course, this character and the appropriate engagements of its government cannot themselves be specified in terms of an apparatus of governing, and we are not called upon to follow the preposterous (but not unheard-of) suggestion that the proper engagements of a government are determined by the available apparatus and that it should do whatever it has power to do. But, whereas the beliefs in which a government is authorized to rule provide no reasons whatever for

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it to choose to avail itself of this or that item of power (there is no specifically 'democratic', or republican, or monarchical apparatus of governing), such reasons are provided by beliefs about the character of the association to be ruled and the appropriate engagements of its government. In short, it is to be expected that the beliefs which have been current about the character of a modern European state and about the office of its government (which are the subject of this essay) will be reflected in what may be called the administrative history of modern Europe, and it is not to be expected that they will be similarly reflected in its constitutional history.

2. When, in the sixteenth century, the word 'state' (and its equivalent in other languages) was added to the European vocabulary of association and began, after some hesitations, to be used for an association of human beings, it was not merely a synonym for what had earlier been called a 'realm' or, among the learned, a *regnum vel civitas*. It stood for a somewhat new kind of human association which had been emerging, more rapidly and more clearly in some parts of Europe than in others, for over a century. The word (like the word 'nation' in its modern meaning) was a metaphor which pointed to a similarity between what was emerging and what was already familiar (e.g. an 'estate' in its various meanings), and it was a word of Latin derivation which carried with it colloquial meanings of *status*. But beyond this, it provided little to identify, and much less to specify, the character of the association thus named. Indeed, it posed, rather than answered, the question of how this emerging association was to be understood.

Nor was this a question which could easily be neglected. A man might have little difficulty in complying with some of the unfamiliar and more exacting demands which his new circumstances imposed upon him, but without an answer to this question he would not know what to expect or what in general was expected of him. To have acquired some beliefs about these expectations and to be able to discern the appropriate conduct for an actor in this new kind of drama, would be to have sketched an answer to the question without it having ever been expressly asked. But while this is about as far as many people have got even to this day, it is unable to satisfy the demands of any but the simplest passages of human intercourse, let alone the roving curiosity of modern times.

Even for the Bateses of this world it was ceasing to be the case that 'we know enough, if we know we are the King's subjects'. Consequently, it is not surprising that this question should have claimed the attention it did in early modern history, and that it should have received a variety of answers ranging from identifications in terms of characteristics and what purported to be appropriate analogies to profoundly reflected theoretical constructions. Moreover, it is a question to which succeeding generations have always returned, as if, after five centuries, we had never got used to the sort of association called a state and had never ceased to find it, and the identity it imposes upon us, puzzling. Or perhaps, it may be said that this sort of association as it emerged did not at once reveal all its potentialities, that it was at first nothing more than a sketch, and that what we have been doing for the last five hundred years is to explore an experience which has defied definitive understanding because it has always been opening out in front of us in surprisingly different directions. But be that how it may, what I want to consider is some of the fortunes of this inquiry, begun in the sixteenth century, into the character of a state.

It is one of a family of inquiries which together we are accustomed to call the political thought of modern Europe. But while it may be distinguished from all its relatives, it is more nearly related to some than to others. Thus, its connection with the inquiry about the office of government is close; indeed, it often appears in the writings of those who have pursued it as itself an inquiry about the engagements of governments and about the identity these impose on their subjects, and it is not difficult to understand why this should be so. And in what follows I shall treat these as two aspects of a single inquiry, taking up the one or the other as seems most convenient. Its connection with inquiries about the apparatus of governing are also close, although here (as I have suggested) a distinction is to be observed. But its connection with inquiries about the constitution and authority of governments is more remote. Further, this inquiry is one which may be, and has been, pursued from either of two directions: a state is a many in one, and its character may be explored with either the many or the one as the focus of attention; the character of the associates or the mode of their association.

It may seem an exaggeration to speak of the consideration given to this twofold theme—the character of a state and the office of its

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government—as an 'inquiry' when so much of this reflection has been concerned with what might be made of this association called a state, with what character might be *imposed upon* it, and with what governments should be expected to do. But there has also been a continuous attempt to seek a genuinely theoretical understanding of the experience of living in a state, and it is with this inquiry that I shall be chiefly concerned, using the writings of the advocates of favoured projects and of the practical politicians only for the theoretical positions they postulate.

The situation in sixteenth-century Europe was not so puzzling as that in ancient Greece where *polis*-life is reputed to have emerged from the circumstances of tribal life and where this 'union of tribes' was discerned to have generated a hitherto unheard-of *persona*: a 'citizen'. The Europe we are concerned with (except perhaps in Scotland) had long since ceased to be significantly tribal, and what the word 'state' recognized was a rearrangement of the components of a medieval realm upon all of which tireless thought had already been expended. Everything in this state, it might be said, was vaguely familiar, but nothing was recognizably the same. Little had been lost on the way, little undeniably new had been added, but all had been changed. It was constructed, for the most part, out of second-hand materials: a dwelling, built by many hands, over many years, in response to circumstantial wants, out of materials got from the near-ruins of a seigneurial estate, a kingly court, and a medieval abbey, and in relation to which the notions of finished and unfinished are equally inappropriate. Some of the stones have been recut and reshaped, others have been left very much as they were when pulled out of the ruins; all have been fitted together differently and put to new uses. But since there was no architect, understanding it cannot be an inquiry into an intention. A somewhat ramshackle construction, it was contrived by artisans who were their own designers following conventions they made for themselves. The character of a state is not a model from which copies may be struck off; it is what the effort to understand this experience has made of it.

This effort to understand lit upon several well-worn analogies, some of which we may neglect, not because they did not enjoy considerable vogue, but because they soon revealed themselves to be inadequate and implausible: the notion, for example, that a

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state is like a 'family' and that the relations between its members were like family relations; or the suggestion that a state is like an 'organism' and that the relationship between its members was like that of the components of an organic process. But there are two ideas, each promising enlightenment and each proving itself to be capable of absorbing a whole direction of thought, round which European reflection on this matter has continuously circled since the fifteenth century: a state understood in the terms of *societas*, and a state understood in the terms of *universitas*.

They derived from Roman private law, where the words stood for two different modes of human association; and from the twelfth century they had become familiar whenever argument had to do with the legal specification of associations. To explore their value for the understanding of this emergent association, not yet called a state but recognized to be a somewhat puzzling novelty, was an obvious recourse. Indeed, it was almost unavoidable that reflection should take this path, for it may be said that in the late Middle Ages every many-in-one of human beings was legally intelligible only in the terms either of *societas* or of *universitas*. But in connection with the interpretation of the character of a state each of these words acquired a somewhat broader meaning which accommodated a variety of somewhat loosely related features, and it is with these (rather than with the strictly legal terms) that we shall be concerned. To consider the fortunes of reflection on the character of a state and the office of its government in these terms gives a perspective to the inquiry which, of course, can be matched by others not less interesting, endowing its features with other shapes. But a historical inquiry which makes us capable of understanding and criticizing *some* particular, coherent representation of a circumstantial situation has, perhaps, done all that may be expected of it.

In the late Middle Ages the words *societas* and *universitas* were already in use to denote and to distinguish some actual associations and communities. The human race was often reckoned to be a *societas* and so was a *civitas* or *regnum*; while an imperial city, a gild, a cathedral chapter, or a 'university' were recognized as *universitates*. Consequently when canvassed as appropriate expressions for a state they could be recognized by the vulgar to offer two useful, but admittedly imperfect, analogies. For the learned, however, each became the centre of an elaborate argument

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directed to the specification of the character of a state. And since these specifications were thought to carry with them some conclusions about the office of government, the words became familiar also in arguments on this topic. It was, for example, upon the contention that the Church was a *universitas* that the reformers at the Council of Basle based their understanding of the papal office. Thus *societas* and *universitas*, already familiar as specifications of two different modes of human association, came to represent two exclusively alternative interpretations of a state, such that to cleave to the one was to reject the other.

But the precision which this alignment promised to the inquiry turned out to be illusory. Each of these terms, when it escaped from juristic exactness, denoted a loosely knit collection of characteristics some of which were manifestly irrelevant in this connection; at best they could be used selectively and the understanding they provided lay in the principle of selection rather than in the model chosen. Their exclusiveness was compromised by features they seemed to have in common, and their genuine disparities were obscured without being destroyed: what became their English equivalents ('partnership' and 'corporation') came to be used indifferently. And in the confusion, in which the word 'social' was appropriated by the partisans of *universitas*, what had promised to be two valuable aids to reflection were deprived of much of their virtue. Thus, as the equivocal character of a state unfolded itself, the inability of either *societas* or *universitas* to sustain itself as an adequate representation of it, and their incapacity to merge in order to compose a new and more adequate identity, were exposed. And in various disguises they survived as competing dogmas which expressed, not understandings of the character of a state, but dispositions to explore its potentialities in one direction rather than another.

Nevertheless, they are not, I think, beyond redemption, and I propose to recruit them to serve again the purpose for which they were invented, that of distinguishing and making intelligible the many-in-one of human associations. For what neither can do alone when used in connection with a state, they may perhaps achieve in the tensions of a partnership. Irreducible, unable to combine, and rejected as alternative accounts of the character of a state, they may be recalled as the specification of the self-division of this ambiguous character. A state may perhaps be understood as an

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unresolved tension between the two irreconcilable dispositions represented by the words *societas* and *universitas*. And indeed there was already in the vocabulary of European association a supremely equivocal expression in which to specify (but not, of course, to resolve) the puzzle set by the character of a modern European state: it was identified as a *societas cum universitate*. This tension, I contend, was inherited from earlier times. It has acquired some new features and has imposed a particular ambivalence upon all the institutions of a modern state and a specific ambiguity upon its vocabulary of discourse: the muddle in which we now live where 'law', 'ruling', 'politics', etc., each have two discrepant meanings. At all events, the thesis I propose to explore is that it is this tension, and not any of the others celebrated in current political discourse, which is central to the understanding of the character of a modern European state and the office of its government. To do so I must descend into the detail of what has been thought and said, but I must first consider the meanings of the terms themselves.

3. The idea *societas* is that of agents who, by choice or circumstance, are related to one another so as to compose an identifiable association of a certain sort. The tie which joins them, and in respect of which each recognizes himself to be *socius*, is not that of an engagement in an enterprise to pursue a common substantive purpose or to promote a common interest, but that of loyalty to one another, the conditions of which may achieve the formality denoted by the kindred word 'legality'. Juristically, *societas* was understood to be the product of a pact or an agreement, not to act in concert but to acknowledge the authority of certain conditions in acting. In addition to these conditions there might be articles of association and even an oath of loyalty, but these were not necessary; nor need such an association be distinguished by a name. It was a formal relationship in terms of rules, not a substantive relationship in terms of common action. But in the broader meaning (with which we are concerned) this constitutive pact became the description of an outcome: *socii*, each pursuing his own interests or even joined with some others in seeking common satisfactions, but related to one another in the continuous acknowledgement of the authority of rules of conduct indifferent to the pursuit or the achievement of any purpose. Thus, friends or neighbours, suitors

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to a court or speakers of a common language may each be said to constitute a *societas*. It is what, in an earlier essay, I have called a moral relationship.

To be associated in this manner may, in principle, be the outcome of a choice. Friends choose one another. But since the choice here is neither a commitment to the pursuit of a common substantive purpose, nor the choice of the conditions of association, what is intrinsic to this mode of association is not the choice to be related but the recognition of understood terms of relationship—the acknowledgement, for example, of a common linguistic or moral condition. Hence the alleged *societas* of the human race where each man recognizes himself to be related to every other man in terms of a prescriptive law of Nature or of God which he has not chosen and from the obligations of which he cannot escape by a choice of his own; or (in a more modern idiom) where each man recognizes himself to be related to others in a common predicament to which an unknown variety of responses may be made and to which each man must make his own response but qualified by the conditions of a loyalty to his fellows.

Further, in a *societas* the conditions of association may be specified in a system of law, there may be judicial office-holders with authority to declare the meaning of rules of law in contingent circumstances, to settle disputes in terms of these rules, and to penalise inadequate subscription to them. And a *societas* may even have a ruler or rulers, although none of this is necessary to this mode of association. Nevertheless, since a state certainly has a law and offices of authority, *societas* offers a plausible manner of understanding a state only when it is recognized to be a legal and a governed association. But the office of ruler here, as elsewhere, is consonant with the character of the association ruled. And whatever the constitution of its government and whatever the beliefs in terms of which it is acknowledged to have authority, the ruler of a state when it is understood as a *societas* is the custodian of the loyalties of the association and the guardian and administrator of the conditions which constitute the relationship of *socii*. He cannot, for example, be the owner or trustee of its property, because it has none; and he is not the manager or director of its activities, because there are no such activities to be managed. This ruler is a master of ceremonies, not an arbiter of fashion. His concern is with the 'manners' of convives, and his office is to keep the conversation

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going, not to determine what is said. Thus, a state understood in the terms of *societas* is what I have elsewhere called a *civitas*, and its government (whatever its constitution) is a nomocracy whose laws are understood as conditions of conduct, not devices instrumental to the satisfaction of preferred wants.

Analogically, *universitas* is not difficult to understand. It is persons associated in a manner such as to constitute them a natural person; a partnership of persons which is itself a Person, or in some important respects like a person. The difficulty comes in trying to make sense of it in terms of a relationship between persons thus said to compose a one of the same character as each of themselves. It seems as paradoxical as a World Soul composed of souls, or a Family composed of families. The paradox may, however, be avoided if we do not insist on the idea of corporate *personality* and are content to understand the partnership in terms of more commonplace and more easily identifiable characteristics. This is how Roman jurists understood *universitas*, the corporate mode of association they invented. They assigned it to the law of Persons; and although they never equated it to *a* person, some of the qualities recognized to belong only to persons were attributed to it; it was, for example, a subject of proprietary rights. They understood it as the creation of an act of authority and it was distinguished from associations of other kinds (particularly from *societates*) by the specific powers conferred upon it. And when the jurists of the later Middle Ages came to explore this notion of corporate association in connection with collegiate churches, boroughs, universities, etc., it gradually received a more elaborate specification.

A corporation aggregate was recognized as persons associated in respect of some identified common purpose, in the pursuit of some acknowledged substantive end, or in the promotion of some specified enduring interest. It was the creature of an act of authority (e.g. a royal, a ducal, or a papal charter) which endowed it with certain powers and franchises known, comprehensively, as the *privilegium universitatis*. The minimum number of persons capable of constituting a corporation was three. It was a perpetual association, continuously renewable in the admission of new associates, and it had complete control over its own members as such. It might be dissolved only by the natural death of all its members, by the voluntary surrender of its franchises, by the forfeiture of its

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privileges on account of the abuse of its franchises or manifest divergence from its acknowledged purpose, or by the desuetude of the purpose for which it was formed. It might make rules for the conduct of its members and it might appoint administrative officers to manage its affairs; usually, a majority of a corporation aggregate bound a minority in final decisions. And since association was in terms of a common substantive purpose, membership entailed a choice to be associated in pursuit of this purpose, an undertaking (perhaps a vow) to promote this purpose and acceptance by those already associated. Membership could be relinquished by a choice to dissociate, although there might be certain formalities to be observed; and a member might be expelled for delinquency. An association of this sort must have a name (and, later, a registered address), and often it would have a common seal with which to authenticate its corporate acts. It might own property, buy, sell, enter into agreements with others, employ servants, and otherwise act as it it were itself a person. It (though not its members) was immune from charges of crime, it was incapable of sin, and, having no soul, it was not subject to ecclesiastical censure. It was, however, subject to visitation and inspection by the authority which created it. Thus, it could hardly be said that any great impropriety had been committed when an association of this character was spoken of as a *persona ficta*.

A corporation aggregate offered itself as an analogy in terms of which to understand the novel associations, soon to be called states, emerging in early modern Europe. And clearly it was not an offer to be refused: there was plenty here to appeal not only to the theorist but also to more than one opinion about the directions in which the still-unformed character of this new kind of association might be pushed. But clearly, also, it would need to be in some respects modified if it were to serve this purpose. Its character as the creature of an already recognized superior legal authority was a hindrance, although this was how some of the states of modern Europe emerged. And the subjection of a corporate association to the visitation and inspection of such an authority was clearly an inappropriate feature: a 'free' or 'sovereign' state might, from one point of view, be said to exist only in terms of a denial of any such subjection. And so, also, was the character of a corporation aggregate as a voluntary association membership of which might be relinquished by nothing more than a choice to do so. But when

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this mode of association was divested of its legal subordination and had been adjusted in some other respects, enough remained to constitute a plausible aid to reflection in considering and identifying a state in terms of its features.

Some who, in later times, have been disposed to understand the character of a state as a corporation aggregate have thought it proper to theorize it in terms of a 'real' personality (a fictitious person could be created only by a superior legal authority), or a 'common' or even a 'real' will. But postulates of this sort are not required in order to make it intelligible. The character of a state suggested by the analogy of a corporation aggregate is nothing more abstruse than that of a many of intelligent agents become one in the joint pursuit of a common substantive purpose and in the enjoyment of the means necessary for undertaking the managerial decisions entailed. It is not (or we need not suppose it to be) many persons transformed in one Person. It is a many speaking with one voice, not because all the tongues have miraculously become one Tongue, or because all the intelligences concerned have become one Mind, or all the wills one Will, but because (unlike *socii*) they are agreed, not merely to speak the same language, but to say the same thing and are equipped with the means of committing themselves to or acknowledging such common utterances as their own.

A state understood in the terms of *universitas* is, then, an association of intelligent agents who recognize themselves to be engaged upon the joint enterprise of seeking the satisfaction of some common substantive want; a many become one on account of their common engagement and jointly seized of complete control over the manner in which it is pursued. They may institute managerial offices whose occupants are authorized to make the decisions in which their joint purpose is pursued and whose actions and utterances are acknowledged to be those of the association. They may make rules which are prescribed conditions of conduct deemed to be instrumental to this pursuit. The land and the natural resources of its territory, and perhaps even the talents of its members, are corporate property; but there may be rules governing the ownership and the exploitation of these resources which assign duties or confer power or franchises upon individuals or groups of individuals. And such property laws will be understood as devices favourable to the prosecution of the joint enterprise. Government here may be said to be teleocratic, the management of a purposive

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concern. This association owes no allegiance to any external authority; it is immune from charges of crime or delinquency; and it 'never dieth', being perpetually renewed in the admission of new members deemed to be intelligent, adult, consenting agents. How such an association might, in default of authoritative creation, be supposed to have been generated in the first place is an insignificant question because it is continuously self-generated in the choices, or the absence of repudiation, of its members. And although resignation from it must be possible (because a common substantive purpose must be chosen by each partner in its pursuit, and choices must be revocable), it is circumstantially difficult.

When in early modern European thought consideration was turned upon the identification and understanding of the character of a state and the office of its government the ideas of *societas* and *universitas* offered themselves as aids to reflection. That they pointed in different directions was no reason for rejecting their services. A state, in those early days, must have appeared to be a puzzlingly ambiguous sketch of an association not easily identified and allowing no more than tentative expectations about what it might be made to become; and neither of these analogies was so compelling as to exclude the other. What we have now to consider is the characteristics of a state and the office of its government which made plausible two so divergent readings of its character, and the outcome of modern European thought on this subject having followed these two courses. And since it is my contention that the features of a state which evoked these understandings of its character were inherited from the realms and principalities of medieval Europe, and that *societas* and *universitas* had already been recruited by medieval thinkers for the purpose of understanding them, this is where I must begin.

4. I shall begin with the character and the governance of a late medieval realm and with what I shall call its intimations of *societas*; for, although some modern European states emerged from associations of other kinds, it was in the medieval *civitas vel regnum* that their common character was prefigured. The ruler of a medieval realm was not distinguished from his fellow landlords by the magnitude of his proprietary estate but by the occupation of an office of authority identified by a title, some conditions of legitimate

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succession to it, a ceremony of induction, some expectations about his conduct, and some beliefs about the source of its authority. He was a king. His realm was not a landed estate; indeed, it could hardly be thought of in terms of territory. Nor was it composed of persons (partners or employees) related to an owner–manager (*seigneur*) in respect of the exploitation of the resources of such an estate. It was the allegiance of those he claimed to rule. The terms of this allegiance were obligations to forbear and to do, spelled out with varying degrees of distinctness. They were not uniform for all his subjects, they might vary from those of alliance to those of specific claims to be satisfied or services to be rendered, but they constituted a tie superimposed upon all other relationships and allegiances and unlike any other: the relationship of ruler and ruled was distinguishable from that of *seigneur et homme*.

A realm, then, was an association of persons and communities in terms of conditions of conduct, recognizable but imperfectly specified. The allegiance of the ruled, although it did not depend upon approval of the actions of a ruler, was not gratuitous; it was expected to be requited in his conduct and it might be stretched to breaking-point if these expectations were seriously disappointed. The undertakings of the ruler were, in principle, set out in a coronation oath, and over the years changes in the terms of this oath indicated changes in the expectations of his subjects. What did not vary was the hope that he would conduct himself in an orderly and not a capricious manner, that he would not unduly stretch the conditions of association, and that his rule would not degenerate into tyranny; that is, the use of the resources of his realm for the advancement of his private ambitions. But the engagements characteristic of such a ruler may be seen more clearly in his normal activities and achievements and in the reception these got from his subjects, than in his often ill-kept promises.

His engagement was, first, to translate the allegiance of those he ruled into a *communitas regni*; that is, to promote himself from being a military leader and the custodian of an ill-defined 'peace' closely related to his presence and his person to being a ruler and the supreme dispenser of justice among his subjects, however exalted or however distant from him they might be. His subjects knew themselves as members of communities of various sorts and dimensions and they had never been without customs, courts, and procedures in which disputed claims might be settled, wrongs

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redressed, and injuries compensated, although at the lowest level these customs were imperfectly distinguished from managerial rules about the cultivation of a landed estate. Now, they were on their way to comprising a realm in which these customs and procedures were subject to the confirmation of royal authority, to courts of law (local and central) emanating from royal authority and presided over by royal agents, and to procedures and devices which gave precedence to royal jurisdiction. Thus, a realm emerged as a collection of overlapping and imperfectly defined jurisdictions and an organization of personal, communal, and corporate *privilegia* recognized by royal authority. To be associated in terms of a system of substantive law, constituting a civil order, was a distant and unfamiliar prospect, but it was one which had been at least unveiled to lawyers when in the eleventh century the *Corpus Juris Civilis* was recovered, and the later efforts of rulers to have local customs written down and set in order was a glance in this direction.[1]

This gradual and often interrupted extension of royal justice was concerned as much with the maintenance of the rights of the ruler and with the collection of revenue due to a king as with doing justice between his subjects, and it was an indistinguishably financial, administrative, and judicial undertaking. But its outcome even before the fifteenth century was at least a procedural law of the working of a realm and the emergence of that understanding of a realm in which it was recognized as association in terms of law: *lex facit regnum*. And when, as it came closer to being achieved, the ruler discovered that he could not himself escape from it, that *lex facit regem* no less than it constituted the realm, this was not only welcome to the least as well as to the greatest of his subjects but served also to distinguish his office from that of a managerial *seigneur* or lord of a landed estate. No doubt expressions such as *utilitas publica* and *salus populi* when used to identify the office of a

[1] Some medieval writers had observed this contrast and had identified a notional civil association with the 'recovery' of *libertas Romana* which was said by Pope Sylvester II to have been 'destroyed by the sword of the Goth'. The idea was that Roman law had been a system of rules of conduct specifying formal relationships between *cives* and thus enclosing and protecting an area of activity which it did not itself occupy and which in this respect was an area of civil freedom. And, in contrast, a medieval realm was an association in terms of specified *libertates*, themselves the creations of law, conditionally enjoyed by persons, communities, corporations, etc., and that its law was merely a totality of fluctuating *privilegia*.

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ruler were capable of a variety of contingent and penumbral interpretations and later revealed themselves to be masterpieces of ambiguity, but their central meaning for the late Middle Ages was a realm as an association in terms, customs, laws, *privilegia* and obligations the authority of which derived from royal recognition and of legal procedures and courts presided over by royal agents: a realm constituted in judicial terms in which 'toute justice émane du roi'.

Secondly, the engagement of a medieval king was to increase the income of the crown. This income had derived from the lands he owned, from the dues and incidents which constituted the rents payable by his vassals for the tenure of their estates, and from the fines, distraints, escheats, etc. arising from the administration of justice. And it was in order to specify these revenue rights more exactly, to protect them from practices liable to erode them, and to retain a hold upon resources which might elude his grasp, that a king's first adventures in 'legislation' were undertaken. He appeared as an enactor of statutes or the author of edicts. His income, however, might be increased by the sale or lease of chartered rights and *privilegia* of various kinds, offices, immunities, 'liberties', incorporations, monopolies, etc. to persons, to towns, to local communities, or to corporate associations; and by the imposition of tolls, dues and duties upon commercial transactions and the movement of goods. And it might be notably augmented by the taxation of his subjects. But this entailed a procedure of bargaining with those who were to pay from which emerged both those representative institutions (such as the provincial Estates of France and the Commons of England), in which communal grievances could be notified for redress and some distant control exercised over royal policies in return for agreeing to a tax, and an apparatus of courts and officials specifically concerned with the collection of revenue arising out of taxation.

This insatiable demand of kings for income sometimes seriously impoverished their subjects; it was the commonest occasion of revolt. And it was liable to qualify a realm in its character as communities and persons going about their customary business and associated in terms of legal procedures sanctioned and operated by royal authority. But it did not suggest that a realm was itself a piece of real estate being exploited under the direction of a king in order that it should yield him an income or that ruling was itself

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estate-management. The resources which went into the treasuries of kings were spent in defraying the cost of administering the realm, upon engagements (such as the conquest of Wales, the subjugation of Burgundy, and the invasion of Granada) in which the boundaries of a kingdom were extended, upon military operations against intruding armies, and upon the pursuit of dynastic ambitions or the prosecution of family quarrels remote from the interests of their subjects. But while a Poitevin subject of Louis XI, a Kentish subject of Henry VII, or a Catalan subject of Ferdinand and Isabella might be the source of supply for these engagements and might be well aware of it and resent it, he did not think of himself as belonging to a development corporation managed by a king and devoted to providing the means for the pursuit of these or any other purposes. Nor could the learned easily bring themselves to think of a realm in these terms. It is true that these kings were credited with magical powers of healing, but the time had long gone by when a realm could be thought of as a co-prosperity association the well-being of which sprang from the magical power exercised by the virtues of a king over the forces of the natural world or from his ability to ingratiate himself to gods. A large part of ruling a medieval realm was concerned with the collection of revenue, but this did not turn it into a business concern to which the principles of cost-accounting might be applied.

Thirdly, a realm had a military organization under the command of a king. Indeed, there were grounds for thinking that in earlier times this and hardly anything else had been its character. Besides the obligation to give counsel, the most important legal duty of the magnates who were a king's earliest subjects was to supply him with fighting men to be used for the common protection of the realm against the depredations of invaders. But these obligations had long since lapsed or had been converted, for the most part, into money payments. The armies at the disposal of the kings of late medieval realms were not mobilized by an Assize of Arms; they were composed of mercenaries (often foreigners, like the Swiss legions of Louis XI) and were recruited for use in the quasi-civil wars and military adventures characteristic of the time. The king's military establishment was an important means of maintaining his authority within his realm, but it was no longer possible to think of the realm itself as a military enterprise or to equate being a subject with being a soldier of the king.

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There were, however, notable hindrances to a ruler's successful engagement in these undertakings and to the recogition of a realm as an association in terms of 'justice'. There were multiple loyalties, some of which qualified allegiance to the ruler. There were local customs to be dislodged, local courts to be made royal by incorporation, independent jurisdictions to be extinguished, mighty subjects to be subdued, and private armies to be disbanded. And the belief that a king should 'live on what was his own', that his rights were only those implicit in kingship, and that no man should be deprived without his consent of what was his own (understood as a *dominium utile*) made taxation difficult to convert from a bargain to a legal obligation.

Moreover, the authority of the ruler of a realm had to compete with that of powerful rulers from without. The claims of the *imperium mundi* of the Emperor were not always a negligible menace to the government of a realm: the earlier exploits of El Cid had been on behalf of the King of Castile against imperial forces. And the authority of the Pope was undeniable and pervasive. He had been known to depose kings from their offices, to excommunicate them, to place a realm under an interdict, to discharge subjects from their allegiances, and all with terrible effect. He could impose taxes the proceeds of which were remitted to Rome; he alone could license universities to award degrees, he presided by proxy at every coronation, and was party to all agreements made under oath between rulers. In every realm there were holders of high ecclesiastical offices, the proprietors of large estates and the occupants of independent jurisdictions whose allegiance (at least in part) lay outside the realm. And there were ecclesiastical courts, administering the law of the Church, with jurisdiction over all causes in respect of some subjects and over some causes in respect of all subjects. Thus, ruling a realm was, to a significant extent, overcoming the hindrances to rule. But to establish a realm as an association in terms of legal relationships, governed by the agents of a king and released from the intrusive authority of Empire and Church, was the engagement of every ruler, often interrupted but never laid aside.

The vicissitudes, the manœuvres, and the fluctuations in which France, Spain, and England emerged as the most notable realms of fifteenth-century Europe were in many respects different, but the outcome in each is discernible as an idiom of a single general

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character. Each was a many composed of persons recognized in terms of their legal status, of communities of varying antiquity and dimensions (provinces, *pays*, counties, manors, baronies, *seigneuries*, etc.) and of corporations enjoying rights and 'liberties' and subject to obligations. And in each this many was united (in so far as it was united) in acknowledging their status, their local customs and rights of self-government, their 'liberties', and their obligations to be the endowment of royal authority or the creatures of royal recognition, and in respect of being subject to the jurisdiction of royal courts of law concerned with the administration of justice and the collection of revenue. Even the Church had been reduced to the status of a corporation within the realm.

There was, then, much in appearance of a fifteenth-century realm and in the engagements of its government to suggest that it might appropriately be understood in the terms of *societas*. The emergent realm was neither a landed estate, nor a commercial enterprise (customs dues were not items in a design to direct traders into more profitable undertakings), nor a military organization but an association in terms of legal relationships. And the emergent ruler (lately the victor in a civil war) was neither a *grand seigneur*, the lordly proprietor of a domain,[1] nor the leader of a host, nor one concerned to exercise an undefined moral and prudential guardianship over the lives, the activities, and the fortunes of his people; he was a ruler of subjects, a *defensor pacis*, whose office was to perform certain public duties, distinguished (though still with some difficulty) from his private concerns.

The chief of these duties were to be the custodian of the *consuetudines* of his realm, to convert these into a law of the working of the realm, to provide courts in which all his subjects might find redress for wrongs suffered and recognition for those of their actions which subscribed to authoritative procedures, to guard the realm against its enemies, and to collect the revenue needed in these undertakings. And if in carrying out these engagements he

[1] Before the sixteenth century the word 'domain', when used in connection with the King of France, had come to mean not his real property but the authority he exercised in his *royaume*, or sometimes (more narrowly) his authority in those parts of his realm composed of *pays d'élection*. This perhaps prefigured the convention of later times in which the expression 'seigneurial government' was used to denote a 'despotic' kind of rule, not to be found in the states of Christendom, and the emergence of rulers who were specified in relation to persons and not land (e.g. the 'King of the French').

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began to acquire a character for which the expression *princeps* seemed not inappropriate and a *majestas* he had not formerly enjoyed, neither of these circumstances conflicted with the notion of ruling exhibited in his engagements. The realm was on the way to becoming a 'sovereign' civil association and the ruler's *majestas* was that of a judge. Some rulers, without being notable tyrants, might be less than scrupulous or overeager in carrying out these engagements, and others (inspired by Roman law) might imagine themselves to be already *principes* in their realms; but the zeal of the first was incapable of imposing the character of *universitates* upon their realms, and it did not escape the second that Roman Emperors even in their most imperious moments had been rulers of a *societas*.

Thus it is not without reason that by the fifteenth century *societas* had become the commonest reading of the character of a realm, although in this reading there was certainly an ingredient of hope yet unfulfilled and a neglect of features which pointed in another direction. Bracton had not been fanciful when he understood the *communitas regni* as persons (including the king) occupying various stations in life and each engaged in his own concerns, but associated in being subjects of a law and suitors to a court recognized by royal authority. And Beaumanoir was not being wantonly inventive when he identified the realm of France in terms of a judicial system and when he declared that 'fief et justice n'ont rien de commun' and that 'toute justice émane du roi'. Moreover, this understanding of a realm was sustained for the learned in their reading of Cicero whose unequivocal identification of *civitas* and *societas* and of *cives* and *socii* was often transferred by fifteenth-century writers to a realm and the subjects of a king.[1]

But this reading of the character of a realm and of the office of its

[1] Cicero recognized a *civitas* as an assemblage of many in respect of their acknowledgement of a law (*juris consensu*) and of being associated (*sociatus*) in terms of *justitia*. The *concordia* this constituted sprang from the recognition of the *mos majorum*, the law and the courts, and from the cultivation of the virtue of *fides*. There was no suggestion that *cives* as such were joined in anything so difficult as mutual love or that they were associated in terms of the pursuit of a common substantive purpose; indeed, this was expressly denied. And it was for this reason that St. Augustine (otherwise a good Ciceronian), who recognized human beings as creatures of affections for whom association was impossible without a common substantive object of devotion, found himself obliged to impose his own substantive (theological) meanings upon the Ciceronian words, *justitia*, *fides*, *pax*, *concordia*, etc.

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ruler was not without a competitor, and I shall now turn to consider the beliefs about human association and the features of a medieval realm which might be taken to suggest that it should be understood in terms of the analogy of a *universitas* or corporation aggregate.

The notion of a corporation, strictly speaking, may be supposed to have emerged in medieval jurisprudence with the recovery of the *Corpus Juris Civilis*, although something like it seems to have been recognized earlier. It was the idea of a many of human beings united in respect of a common substantive purpose, interest, concern, or 'cause'. And it was readily understood to postulate persons each of whom identifies himself in terms of some specific purpose or interest and is joined with others who identify themselves in relation to the same purpose or interest and thus recognize themselves to be united in terms of a common purpose or interest. That is to say, a corporation is not composed of persons with divergent wants or interests associated in making bargains with one another for the satisfaction of the different wants or interests of each. Nor is it composed of convives, joined in speculative discourse. It is persons associated in reaching joint conclusions which are decisions to speak or to act in relation to the pursuit of a common purpose. Moreover, since these conclusions cannot be deduced from the common purpose, there may be differences of opinion among the associates about what shall be said or done, and some rule is required to specify what shall count as a corporate or joint decision. To insist upon unanimity would be to risk either frustration or the dissolution of the association whenever a decision had to be taken. And the usual rule (taken over from Roman law) was that the voice of the majority of the members or of those present, was the voice of the corporation.

Such an association might need officials appointed to convene and to conduct its meetings, and agents to execute its decisions or to negotiate their execution with others. A corporation, however, was free to make what rules it liked in these or any other matters concerned with the conduct of its affairs or the management of its property. It might, for example, authorize certain of its members to take some or even all decisions on its behalf and thus acquire a board of directors recognized to 'represent' the corporation; that is, to be the trustees for the time being of the purpose of the association, not agents of the wills of its members. Or, it might

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invest one of its members with the authority to conduct its affairs and thus get itself a *custos* or Grand Master who might be required to consult the members of the corporation only on matters of high policy and to render periodic account of his stewardship.

The usual privileges of corporate status were the right to perpetual succession, the right to sue and be sued as an association, the right to make rules for itself, the corporate ownership of property, and the right to identify its corporate decisions by a common seal. The corresponding obligation was that of adhering to its registered purpose (particularly in respect of its use of funds) and to observe the special conditions of incorporation, if any. The two authorities capable of awarding corporate status were popes and kings, although dukes had been known to usurp this authority. Finally, although some fanciful medieval writers were disposed to understand corporate associations in terms of a corporate 'mind' or 'will', medieval jurisprudence had what may be called an Aristotelian reluctance to invoke such postulates: a *universitas* was not a 'one' but a many united in respect of a common purpose. And even the Church, when thought of in corporate terms, was more commonly understood to be a many united in terms of a common faith than as (what some claimed it to be) a 'mystical union' of believers.

Corporate association was a familiar feature of medieval life from the twelfth century: collegiate churches, cathedral chapters, monastic orders and houses, the cardinalate, municipalities, gilds of merchants and of craftsmen, universities and schools; the provincial *cortes* of Spain, the *Parlement de Paris* or that of Toulouse (incorporated in 1483), the Exchequer of Normandy, the Knights of Malta, the Fellowship of the Holy Grail.

But besides these deliberately incorporated *collegia* there were assemblages of persons, self-perpetuating, elected, or appointed (but not by an authority capable of awarding corporate status and not to represent the members of a corporation) to perform in common certain duties and specified in terms of this purpose, which had many of the characteristics of a corporation proper and might be thought of in these terms: for example, the Grand Council of Venice. Venice was not itself a corporation (unlike some other cities of Italy, it had never been a Roman municipality) but from the end of the twelfth century it was governed by a Grand Council which was, in many respects, eligible to be understood in terms of

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corporate association. The members of the House of Commons were, in some sense, representatives of corporate associations (boroughs and shires), but it was not on this account that by the sixteenth century it was thought and spoken of as itself a corporation. English lawyers, in an attempt to distinguish him as ruler of the realm from whatever else might be, had devised an understanding of the King as a corporation sole. And medieval writers were often disposed to extend the notion of corporate association and the honorary status of *universitas* to almost any 'multitude of men' joined in pursuing a common purpose, particularly where it was understood that this purpose *could not* be pursued or achieved without joint action: a manorial or a seigneurial community.

All this was familiar. But what we have to consider is the eligibility and use made of the idea *universitas* as an aid to reflection in identifying a realm itself and the eligibility of its ruler to be understood, not necessarily as himself a corporate person, but as the manager of a *universitas*. And in doing so we must allow for the liberality with which writers concerned with exploring this direction of thought interpreted the idea of corporate association.

The theme is deceptive and I shall begin by illustrating its pitfalls. Marsilius of Padua is reputed to have made substantial use of the analogy of corporate association when considering the character of a realm and the office of its ruler, but his main concern lay elsewhere (with the authority to make law) and, although he writes of a realm as a *universitas*, his argument does nothing to sustain it in that character.

For Marsilius, a human being is an intelligent agent seeking the satisfaction of his wants; and since many of these wants cannot be satisfied without the aid of others, the human condition may be understood as intelligent agents seeking the satisfaction of their individual wants in transactions with others. This condition is difficult, if not impossible, to sustain without some common rules of conduct; and consequently human beings may be said to have a common need which cannot itself be satisfied in individual transactions but the satisfaction of which is the condition of all transactional undertakings. A realm (*civitas*) is a contingent assemblage of such agents who, identifying themselves in terms of this common need and the engagement to satisfy it, compose a *universitas*. And, thus incorporated, they together acquire an imprescriptible authority which they could not possess as in-

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dividuals and which could not be acquired in any other way. This authority is the right to make laws (that is, enforceable prescriptions) for themselves; and these laws are nothing other than the expressions of the corporate will of *cives* determined in a vote in which all are eligible to participate. As a corporation aggregate they also have the right to elect and to authorize a person or persons charged with the administration of these laws: a 'ruler'. This 'ruler' is important because without such an office the laws could not be expected to be operative: he is, indeed, the *pars principans* of a realm, the person or persons upon whom the effective order of the realm depends. Nevertheless, he is no more than the agent of the corporate will of *cives*, removable if he should fail to perform his duties and without any inherent authority of his own. Thus, a realm has no 'end' other than the satisfaction of the common need of a compulsory order, and it is understood as a *universitas civium* because only a corporation aggregate can be recognized to have the authority to make the rules in terms of which this need is satisfied.

Marsilius has other expressions for the satisfaction sought in this corporate engagement which constitutes a realm. He speaks of it as human well-being, peace, tranquillity, and as a concern for the 'health' of the human condition. But these expressions do not, and are not intended to display a realm as an association for the pursuit of a common substantive purpose. These rules do not prescribe wants to be chosen or actions to be performed; they specify only conditions to be subscribed to in the self-chosen transactions of individual agents. And he says deliberately that the 'unity', the singleness of utterance, which must characterize both the law-making engagement of incorporated *cives* and the administrative execution of their will has no counterpart in ordinary conduct, which remains that of persons seeking the satisfaction of their different wants in an irreducible plurality of self-chosen actions and responses to actions; and he expressly asserts that it would be ruinous both to individuals and to a realm if this were not so. Thus, in spite of this parade of the language of corporate association, a realm for Marsilius turns out not to have the essential characteristic of a *universitas*. Unlike a gild of craftsmen, a school, a university, a monastic house or a military order, it is not a many joined in the pursuit of a common substantive satisfaction; and its ruler is not a manager. It is a 'multitude of men' formally associated in terms of

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laws which they have made for themselves and which they have authority to make in virtue of being incorporated to do so.

Properly speaking, then, a *universitas* is a many associated in the pursuit of a substantive enterprise, and its ruler (if any) is related to this enterprise in some such manner as that of its custodian, guardian, director, or manager. And there was little in the appearance of a late medieval realm and the conduct of its ruler to evoke an interpretation of its character in either of the two most plausible idioms of corporate association, military or economic: it was too late for the one and too early for the other.

War, of course, was commonplace: the quasi-civil wars of the fifteenth century in which such modern states as France, England, and Spain emerged, and military operations to protect a realm from foreign invasion or to extend its empire. Wales had been subjugated, Castilian and Aragonese armies conquered Granada and southern Navarre, the independence of Burgundy was destroyed, and the armies of Charles VIII invaded Italy in pursuance of legal claims upon territory. Obligations of military service as a tie of allegiance constituting a realm were not yet extinct, but the armies of the time were mostly hired mercenaries. In earlier times both England and France were each more united under their kings in rebutting the aggressive claims of the papal bull *Clericis Laicos* (1296) than on any other occasion. Machiavelli was the author of a doctrine in which a citizen army was a *sine qua non* of an Italian state. The Europe of the time was familiar with military corporations like the Teutonic Order, the Knights of Malta, and the Orders of Santiago and Alcantara in Spain. And it would not have been eccentric to recognize a Mark of the Empire as no more than a military organization. But although the rulers of medieval Europe had emerged as military commanders, it occurred to no one in the late Middle Ages to identify a realm in these terms.

And the circumstances of a realm did not readily suggest that it might itself be understood as a corporate enterprise for exploiting the resources of a population and a territory and that the tie of the *communitas regni* was a communion in profits. And ruling was not easily to be recognized as the custody or direction of a co-prosperity enterprise. One of the memorable achievements of medieval practice and reflection was the distinction between rulership and the lordship from which rulership had circumstantially emerged; the distinction between a king and a lord, between ruling a realm

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and managing a *seigneurie* or a manor, between a subject and a tenant, a retainer or an *homme*, between a 'public' and a 'private' relationship, between the exchequer of a realm and the fisc of a ruler's household, between a custodian of law and a custodian of a common interest. But it never was more than a somewhat hesitating distinction, and the corroboration it might have received from Aristotle's corresponding distinction between *polis* and *oikia* was lost to the learned. Rulership and lordship were never separated; the idea of an office whose authority was exclusively that of a ruler, related solely to subjects, never conclusively emerged.

But it would be a mistake to suppose that the idea of a realm as a co-prosperity enterprise obtruded itself in the regal right of *dominium eminens* by which kings claimed and sometimes exercised an over-ownership of the resources of their realms and a right of expropriation. This regality was toyed with by French lawyers and re-invented rather than revived in the seventeenth century, but it was almost peculiar to England where it may be regarded as a legacy of the territorial arrangements of the Norman conquest in which 'every rood of land' was held of the King. But it was never unconditional; and the condition of its exercise, a somewhat vague *ex justa causa*, had to wait until the seventeenth century before it was even hesitatingly interpreted (by Coke) to include the prosperity of the realm.

In short, the notion of a realm as a corporate enterprise for the exploitation and enjoyment of the resources of a territory was not groundless, but fifteenth-century attempts to magnify this feature in England were unconvincing. Sir John Fortescue, for example, wrote of the realm of England as a *collegium* managed by the King or the King in his Parliament, and he seems to have imagined it to be a wealthy foundation (perhaps not unlike the educational foundations of the preceding century) whose 'endowment' was, in respect of the larger part of it, at the disposal of a patron-king to be managed for the benefit of his subjects; but this was fanciful. And what did not obtrude itself convincingly in the not unpromising circumstances of England was not likely to be obtrusive on the Continent. Nevertheless, the survival of an unpurged relic of lordship embedded in the office of a king was one of the sources from which the character of a modern European State acquired a by no means recessive feature in virtue of which it became eligible to be understood as a *universitas* of a certain kind: a productive–

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commercial enterprise or a development corporation under the management of a government.

But besides this rather remote intimation of a realm as a corporate enterprise there were more positive considerations which pointed understanding in the direction of *universitas*, and the most extensive and convincing elaboration of the view that a realm should be understood as a corporation aggregate was connected with the sacerdotal authority of its ruler.

The Christian Church was understood to represent the continuing presence of Christ upon earth, and persons in respect of belonging to it constituted a mystical corporation, a *universitas* devoted to the worship of God and the performance of his will and united in the common enjoyment of the gifts and consolations of Grace. It came to be spoken of as the *respublica Christi*. The authority of the Pope as the head of this *universitas humana* was a *plentitudo potestatis* in which he claimed, in virtue of his office, to be the custodian and administrator of the law and the property of the corporation and the supreme legislator and judge in Christendom (his *potestas jurisdictionis*); to be the guardian of the Faith and of the sacramental observances of the Church and the enunciator of Christian doctrine (his *potestas ordinis*); and to be the director of the education of Christendom, the guardian of learning, and the arbiter of knowledge (his *potestas docendi*). Of these, the last was incomparably the most important: it was the authority under which a Christian culture was to be imparted to each successive generation. The *respublica Christi* was a *communitas totius orbis*, and each *regnum particulare* was understood to be a circumstantial particle of this *ecclesia*, its ruler in all his engagements to be a deputy of sacerdotal authority, a consecrated figure receiving, like a priest, communion in both kinds, a 'vassal' of the Pope, and the rule of his realm to be the administration of the affairs of an inseparable part of the total *universitas*.

This doctrine was promoted in the papal invention of the Imperial Office, and from the thirteenth century (Emperors having proved themselves to be unreliable agents) by the recognition of the 'imperial' status of the rulers of realms, most of whom revealed themselves to be even less faithful servants of the *respublica Christi*. It had been unequivocally enunciated in the *Dictatus Papae* of Hildebrand, it was given its jurisprudence by Innocent III, and its terms were not abated by the Conciliarists in the

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fifteenth century who wished merely to transfer the papal *plentitudo potestatis* to a Council of Cardinals. It was, however, never much more than a dream. The assertion of ecclesiastical authority in these terms enjoyed sporadic recognition; it broke the surface of administrative arrangements in the investiture controversy; it prevailed, of course, in matters of doctrine, and it appeared less intermittently in the control of the *studium*; there were occasions, when used in support of kings against rebellious subjects and of subjects against wanton kings, it played some part in the internal affairs of realms. But the doctrine never managed to impart the character of a sacerdotal *universitas* to any realm, let alone Christendom. Nevertheless, it remained a profoundly influential dream, passages of which have often been plundered by governments in modern times.

The doctrine, moreover, was repudiated by every ruler, even the most pious, except where interest advised its temporary recognition. Their duty as defenders of the Church and their recognition of the Pope and of the independent authority of the *sacerdotium* in their realms were never a recognition of a papal *plentitudo potestatis* embracing temporal and spiritual concerns. The Church was accommodated within their realms in terms of 'liberties' often grudgingly conceded and *privilegia* often hastily curtailed or withdrawn. And the alternative doctrine (much more widely accepted) that the relation between *sacerdotium* and *regnum* was that of two independent, co-operative authorities, each responsible for distinguishable aspects of the lives and conduct of its subjects, received a theoretical elaboration no less thorough than that in which the claims of the papal *imperium* had been set out.

But, by the fifteenth century, the critics of ecclesiastical authority had shaken its claim even to independence. And this assault, together with centuries of anti-clerical enactments and the continuous plunder of church property, combined in an understanding of its relationship to the *regnum* as one of subordination. Nor was this a merely civil subordination in which it enjoyed the status of a corporation equipped with franchises. Its offices became in many places the gift of kings and their exercise subject to royal control, the jurisdictions of its courts were curtailed and its authority to teach invaded. And it could now be alleged (no doubt with some exaggeration) that the Church was, in a unique sense, no more than a *pars vel officium civitatis*.

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For the independent authority of which the *sacerdotium* was thus (in idea and often in practice) deprived did not merely fall into desuetude. What was lost to the Church was acquired by the king and added to his office. What occurred was not merely the expropriation of the alleged undesirable authority of the *sacerdotium*, but the appropriation of this very desirable and extensive authority by the civil ruler. Some writers have interpreted this turn of events as merely an accession to the 'sovereignty' of a civil ruler, the extinction of a competing authority allowing him to become more nearly an 'emperor' in his realm. But this reading of the situation obscures its most important feature, namely, that the sacerdotal authority which in part thus fell to the *regnum* was different in kind from that which a civil ruler already enjoyed and was accustomed to exercise. This acquisition (in so far as it was enjoyed) did not merely establish regal authority more firmly, it intimated a transformation of the office of ruler which, in turn, intimated a new understanding of the character of a realm. A ruler of a realm, already beginning to be recognized as *sibi princeps*, found himself endowed with at least the shadow of a *plentitudo potestatis* which suggested that he was not merely the 'sovereign' ruler of a *societas*, but the manager of a *universitas* and responsible for the *animae*, no less than for the temporal peace, of his subjects. In short, the change which was being set on foot involved a new understanding of each of the three inseparables: the character of subjects, the character of a realm, and the office of government. What was falling to this office was not merely authority to appoint ecclesiastical officers (many soon to be laymen), but the right to direct their activities; not merely the ownership of large quantities of property taken from the Church, but the control of schools and universities, charities, public holidays, marriage law, baptismal names, usury, etc., etc.; not merely jurisdiction over persons hitherto exempt, but over causes such as heresy, blasphemy, moral delinquency, and intellectual deviance; not merely a large part of the *potestas jurisdictionis* of the Pope but also his *potestas docendi*. In Spain, before the end of the fifteenth century a king had become the proprietor of an 'inquisition' into the beliefs of his subjects which turned its attention from Jews and Moors to Castilians, and from Castilians to Catalans, Sardinians, and Sicilians. Indeed, the civil ruler lacked only (what accrued to many rulers in the following century) the right to choose the religious confession of his

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subjects; and he hesitated only to assault the *potestas ordinis* of the Pope.

Thus what the papal office had sought in vain in respect of a notional *respublica Christi* embracing all realms, was coming within the grasp of kings and princes in respect of their separate realms. And what had been said as long ago as the thirteenth century by those to whom Aristotle's *Politics* had come as a revelation and by those who had led the assault upon the cultural authority of the Church, namely, that a *civitas vel regnum* was to be understood as itself a *universitas* and as a *communitas perfecta*, now began to be said with less hesitation and more conviction.

Both Aquinas and Dante had recognized a *communitas politica* as a *totum* engaged in a single endeavour: the pursuit of the true 'end' of man, *vivere secundum virtutem* in this world for the attainment of the *ultima beatitudo post mortem*. And they had understood ruling to be something more than having the custody of a law and courts designed to assure the *temporalis tranquillitas* of subjects each of whom has a 'final cause' of his own for the realization of which he was personally responsible to a God who has provided him with the assistance of sacramental Grace. Ruling was to have the custody of the material, moral and spiritual welfare of a community with a teleology of its own into which that of the individual soul had been assimilated. To rule was to direct the activities of subjects so that they should contribute to this common endeavour; it was to pilot the ship of state to its appointed destination *ad portam salutis aeternae*. These writers, it is true, had hesitated to reduce *cives* to utterly indistinguishable 'parts' of a 'substantial' *totum*, mere role-performers in a *bonum commune*, although they had come near to doing so. The conviction of Aquinas that there is a 'good' of a *civitas* is always matched by a belief that there is also a 'human good which does not consist in a community but pertains to each individual as a self'.[1] But some of their successors showed less compunction. Their vision of a *civitas* was unmistakably that of a *universitas*, a many become *quasi unus homo*, whose 'end' was a *bonum universale*, in which the office of ruler was a *ministerium* endowed with large discretionary authority, continuously in use, directing the activities of subjects known only as members of the corporation and partners committed to its purpose. In short, these later writers were engaged in exploring, not the 'whiggish' and

[1] *Summa contra Gentiles*, III, ch. 80.

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'populist' but the teleocratic intimations of the beliefs of their predecessors.

It is easy to exaggerate this attribution of a 'mission' to the office of ruler, a comprehensive responsibility for the *bene vivere* of subjects in this world and the next, and to magnify the understanding of the character of a realm which went with it. Certainly it occupies a larger place in the philosophical writings of the time than in the activities of rulers, who lacked an apparatus of governing to match such an engagement. Nor, do these writers exercise much practical imagination in considering what such a realm would be like or how it contrasted with what in fact was the case. Nowhere was it imagined in anything like the detail of, for example, Malory's fifteenth-century dream of Arthurian England as a select corporation of knights and their retainers dedicated to the pursuit of a single ideal enterprise, devotion to which, incidentally, he recognized as the occasion of the destruction of the 'fellowship'. But the direction in which this understanding of a realm and of the office of its government pointed and its provenance in the *respublica Christi* are unmistakable. It is a reading of the character of a realm which belongs neither to the civil history of the emergence of so-called 'sovereign' states nor to that of 'populist' beliefs about the derivation of the authority of rulers, but to that of the exploration of the analogy of a corporation aggregate as the terms in which to understand the character of a realm. The experience it reflects is that of rulers having become the residuary legatees of a notionally all-embracing ecclesiastical authority and still uncertain about the character which this inheritance had imposed upon them. And it was the loudest announcement of the eligibility of a realm to be understood in the terms of *universitas*.[1]

5. The emergence of modern European states from the conditions of medieval life and thought was mediated by some constitutional and administrative changes which did not themselves suggest or

[1] The writings of John of Salisbury and others appear to offer us an understanding of a realm as a *universitas* expressed in terms of 'organic' analogies. It is a community whose components are integral 'members one of another', each a God-ordained role-performer in the enterprise of achieving a substantive condition of things called 'the welfare of the whole commonwealth'. But this is hardly to be taken literally. These writings are coruscations of analogies rather than theoretical explorations of the character of a realm, and their commitment to the idea of an organism is always qualified.

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impose upon them any substantive character as associations of human beings or commit their rulers to any engagement save to continue their inherited but yet unfinished adventure: to emancipate themselves and their subjects from superior alien authority and to extinguish competitors to their authority at home; to exclude and to consolidate. Each incipient state set out, in this respect, from a different situation, and the steps on the way were for the most part expedients, responses to local conditions. Sometimes there was design, but nowhere was there any grand design. The achievement was often slow and it left behind relics of earlier conditions of subjection and competition, but the outcome of this adventure was the emergence of states, each an idiom of a formal ideal character: that of a 'free' or 'sovereign' association.

The more dramatic achievements were concerned with the exclusion of rulers from without: the Papacy and the authority of the Imperial constitution.

In respect of the Church, what had been for centuries an encounter of skirmishes in which its claims had been intermittently ignored, evaded, rebutted, or compounded in concordats emerged as a campaign in which everywhere the papal *potestas jurisdictionis* was extinguished and ecclesiastical property plundered on a thitherto unheard-of scale, not merely by declared enemies of the Church but also by its otherwise faithful members. When civil courts had taken over what had belonged to the jurisdiction of ecclesiastical courts, when wills and treaties had ceased to be semi-ecclesiastical documents, when the Pope's authority as an arbitrator between the rulers of realms had lapsed, when papal taxation had been proscribed by civil rulers, when ecclesiastical offices had become royal appointments invaded by laymen, when the franchises enjoyed by the Church had been withdrawn and ecclesiastical corporations in large numbers dissolved, when excommunication had no terror and interdict no peril, the judicial *majestas* of the Papacy had vanished. This first assault upon the jurisdiction and the property of the Church was, of course, part of a larger engagement (pioneered by those rulers who took up with the Reformers and on behalf of their subjects elected for some kind of Protestant confession) in which the rulers of states dispossessed the Church in other departments of its authority. But this belongs to another story (to be taken up later) in which, its ruler having become a secular priest and tutor to his subjects, a state became

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eligible to be understood and preferred in terms of a *universitas* of some kind. What concerns us now is that increment of formal independence of external authority with which the surrender of the papal *potestas jurisdictionis* to regalian authority endowed every emergent state of modern Europe. It was achieved before the end of the sixteenth century, although not without leaving relics of the old dispensation behind to trouble, for example, Napoleonic France and Bismarckian Germany.

The claims to Imperial overlordship in respect of England, France, Spain, and Portugal no longer required to be rebutted. The Emperor was a German king. But what, at the end of the fifteenth century, was coming to be called 'The Holy Roman Empire of the German nation' (*Volk*) had none of the characteristics of a kingdom: it was without a law, a judicial system, an administrative apparatus, financial resources, or military organization. It was a collection of some 350 lordships of various dimensions, antiquity, and status, the relics of feudal fiefs now enjoying different degrees of seized or negotiated independence: Electoral Duchies, Grand Duchies, Princely Estates, Archbishoprics, Prince Bishoprics, Landgravates, Margravates, Imperial Cities, incorporated municipalities, and lesser lordships. It contained the patrimonial estates of great families such as the Habsburg, the Wettin, the Hohenzollern, and the Wittelsbach. The imperial authority was vested in an elected Emperor (himself a Habsburg, the Archduke of Austria and effective overlord of the Grafschafts of Tirol, Styria, Carinthia, and Carniola) and a Reichstag in which the occupants of the component lordships of the Empire or their representatives might meet. It had been recently depleted by the loss of the Duchy of Holstein to the Kingdom of Denmark and the secession of the Swiss Cantons. It was threatened in the east by Turkish invasion and in the west by the ambitions of the king of France and by the self-styled Grand Duc of Burgundy. By the Concordat of Vienna (1448) the Archduke of Austria had freed his estates from the *potestas jurisdictionis* of the Pope and the negotiation of a similar emancipation for a notional 'Church of the German Nation' had been mooted in the Reichstag; otherwise the Empire was legally unprotected from the exercise of papal jurisdictional authority. Projects were afoot to turn it into an effective federal union of principalities and even to reconstitute it as a kingdom in the modern idiom, but they came to

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nothing in the face of the opposition of the lords of its component fiefs. It was long since these had begun to extricate themselves from their overlord and his dynastic adventures, and they had become accustomed to pursue this policy in leagues and alliances among themselves as occasion offered. And in the course of less than two centuries, in war, secession, declarations and seizures of independence, hereditary successions, treaties, sales and purchases of estates, and leaving behind many private properties (the relics of feudal fiefs) of varying degrees of independence, there gradually emerged from this already notional Empire six kingdoms with plausible pretensions to the character of modern states: Austria, Brandenburg-Prussia, Bavaria, Saxony, Württemburg, and Westphalia. The rulers of these states had graduated from being lords of territories and tenants to being kings of 'sovereign' realms and subjects. Some in order to achieve this independent regal status had elected on behalf of their subjects for some version of Protestant confession, but they were alike in having emancipated themselves from both papal and imperial jurisdiction; each was what the received Roman law told him he should be, *sibi princeps* in his own realm. The fortunes of these new states, like those of all others in modern Europe, were uncertain. Some were more durable than others, but there was none which did not have to defend its new-won independence against the encroachments of others of its kind, and few whose rulers did not embark upon military adventures to extend their territories and add to the number and variety of their subjects.

The second part of the inherited adventure, the engagement in which a ruler consolidated his rule by suppressing or absorbing competitors to his authority at home, was a more plodding affair. Where a government was still very much in a situation of having to work its passage in respect of its authority with some if not all of its subjects there was often an unavoidable contraction of engagements: ruling became, in part, a pacification in which ancient independencies which could not be summarily destroyed were neutralized or played with. A dissident and ungovernable nobility might be expelled from an Italian city or a powerful military order might be suppressed in Spain; but the great lords of France, the sons of those who had humiliated Louis XI, could not be so easily disposed of, and there were those even in the reign of Louis XIII who reckoned themselves the equals of the king and who

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regarded their allegiance as a matter of condescension. The palatine status of Durham and the franchise of Wales could be annulled by Act of Parliament; but the power of the Percys in the north of England was not so easily reduced; Cornwall was remote in language and in loyalties, and Catalan and Gascon independence was difficult to abridge. In Sweden for a generation after the death of Gustavus Vasa (1560) his office was more firmly connected with Dalarne than with the other provinces, and succession to it was disputed among his heirs. The Union celebrated at Utrecht in 1579 remained not much more than an alliance of provinces until 1814. And in spite of their inconvenience and divisiveness many governments had to endure the religious eccentricities and the linguistic diversities of their new subjects. However, the emergent beliefs about what constituted *droit gouvernement* were now held with a new self-consciousness; what had often been vague intentions pursued as opportunity allowed and enterprises merely to terminate subjection to foreign rulers, became policies which the exploitation of a somewhat improved apparatus of government provided the means to prosecute relentlessly. Nevertheless, the royal administration of France remained for long a chaos of overlapping offices and jurisdictions, and the impressive apparatus of Councils and royal overseers in Spain was less a system than a collection of expedients.

But before the end of the sixteenth century the identifying marks of a state were not seriously in doubt. Of course, the features pointed to were imperfectly specified; they were no more than marks of recognition. And of course associations purporting to be states displayed these characteristics with varying degrees of completeness. But, one way or another, the sort of association they delineated was much less nebulous than even the most collected of the realms of medieval Europe; the outline at least was unmistakable. And modern European states, from Moscow to Portugal and from Sweden to Naples, emerged in the transformation of feudal and personal relationships into those of subjects to rulers and subjects to subjects, in the extinction of independent jurisdictions, and in the supremacy of the legislative act over ancient law and custom.

A state was recognized to be a contingent, destructible association of human beings inhabiting an identified territory and joined in being the subjects of a ruler or government. The status of

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subject was a matter of law, not of choice or chance or even territorial domicile. The ruler was a single inalienable authority without superior, partner, or competitor. He was the custodian of a 'law of the land' prescribing the rights and obligations which identified subjects, of a judicial system, of authoritative procedures for making and amending this law and for raising public revenue. He was endowed with discretionary authority to make executive decisions and to appoint officials and agents, and he was in sole command of military forces. This association was one of a number of its kind and the conduct of the relationships between them was the prerogative of their rulers whose business it was to defend the integrity of their territories. Christendom had become Europe, a manifold of independent states devoted to their own multiplicity.

In short, in the language of the time, a state was a 'free' or 'sovereign' association in respect of three characteristics. It was 'free' because its government was not subject to any superior external authority. It was 'free' in virtue of being association in terms of law. And it was 'free' because, having in its government the authority and the procedures to emancipate itself continuously from its legal past, it was proof against prescription; there was no law so ancient or so entrenched that it could not be amended or repealed. And although no modern European state has displayed these characteristics without some qualification, all subsequent reflection about its character and that of its government has been concerned with this ideal identity.

It suggested a variety of topics for reflection, historical and philosophic. None of them was new and the terms in which they were discussed were often antiquated, but each was endowed with a circumstantial urgency reflecting the tensions of the time: speculation about the so-called 'origin' of civil association and the derivation of civil authority, in general and in relation to particular states; about the responsibilities of rulers and the obligations of subjects; about the specification of tyranny and how to dispose of tyrants, and so on.

One such subject of inquiry which has received continuous attention deserves to be noticed here although it is not our main concern. It related to the constitution and tenure of a government of this sort: that is, to its authority, not to its power. So massive an authority, identified in the first place with a monarch and his agents, provided much that subjects anxious to be liberated from the dis-

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tractions of civil strife and eager to be rid of antiquated obligations and servitudes could recognize to be valuable: like the Lutheran gospel of justification by faith alone, a modern state was for many an experience of release, if only from civil commotion. But just as the euphoria of the Lutheran message brought with it the constrictions and severities of Puritanism, so this liberating civil authority was seen also to have a menacing aspect: it evoked misgivings commensurate with its magnitude.

There were, of course, still-unforgotten beliefs in terms of which the authority of governments was held to be limited; but the conventional formulations of these beliefs, in terms of a 'natural law' understood as rules of superior authority, or of the prescriptive authority of ancient *consuetudines*, of a 'fundamental' law, or of *leges imperii*, were plausibly inapplicable to an authority which claimed and was recognized to be *absoluta et excepta*, sovereign and imprescriptible, and the worth of which lay precisely in its *potestas* to release subjects from entrenched but now unwanted obligations. And the enterprise of reformulating these limits in terms of postulates, not prescriptions, which after a long history culminated in the declaration of so-called 'principles' of state intervention or non-intervention collapsed in ruins round about the end of the nineteenth century—not because subjects had become indifferent to the menace of this massive authority but because of the inconsequence of the casuistry evoked by this manner of thinking. There was, however, a more appropriate response; that in which the imprescriptibility of a government was admitted and even approved and which concerned itself with the constitution and tenure in terms of which the menace of such a government might be avoided. Some of whose thoughts took this direction considered the question at a theoretical level and (like their predecessors Marsilius of Padua or Bartolus of Sassoferrato) emerged with theorems in which the authority of governments was understood to be 'contractual' or analogous to a 'trust'. Others fell to dreaming of a 'sovereign' government whose tenure was such that it could not be menacing or one in which this 'sovereignty' was so distributed as automatically to frustrate its threat. But there were others, again, not bemused by ill-understood formulas,[1] who linked themselves with earlier attempts to limit the

[1] The independence of judicial proceedings, for example, was connected with the tenure of judges, whereas it lies in the convention that a public prosecutor (the crown or 'the People') appears in court as a litigant.

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narrower authority of medieval rulers and who explored the intimations of current constitutional practices for devices for diminishing the menace without destroying the virtue of a government endowed with 'sovereign' authority: institutions such as the *Parlement de Paris*, provincial assemblies of Estates, corporations of magistrates, the House of Commons, rights to be informed, to petitition, to remonstrate, to participate, or to approve. And riding upon local and circumstantial opportunities, reflection in these terms generated some notable notions and contrivances: so-called limited and mixed monarchy, constitutional government, written constitutions, federal government, mandated government, party government, plebiscites, and 'parliamentary democracy' understood as a government composed in such a manner (periodic elections) and conducted in such a manner (in a critical assembly endowed with authority) as to limit the menace of its 'sovereign' authority. In many muddled minds, and confused with such meaningless expressions as 'popular sovereignty' and later 'majority government', these constitutional contrivances were mistaken for designs for so-called sovereign 'self-government', for reaching better rather than worse or even impeccable conclusions about what should be the conditions of civil association, or for establishing an indestructible so-called identity of 'interest' between rulers and subjects. But from being devices of varying worth and corruptibility for circumscribing the authority of monarchs they became institutional expressions, passing or more durable, of moral (not prudential) beliefs about the constitution and tenure of a 'sovereign' ruling authority in a modern European state.

6. But a state recognized as persons and groups of persons associated in terms of a law and of judicial decisions and administrative orders authorized by law, and a government recognized as a 'sovereign' authority, were identities understood but still waiting to be understood. The first is ambiguous. Is this law a system of prescriptive conditions, indifferent (and not merely impartial) to the satisfaction of wants, to be subscribed to in making choices about what to do or say, or is it a set of prudential managerial conclusions specifying a common purpose and the manner in which this purpose shall be contingently pursued? Is a state to be understood in the terms of *societas* or in the terms of *universitas*, or

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is it an equivocal mixture of the two? Are the associates to be understood as 'subjects' or as role-performers in a common enterprise? And the second is imperfectly specified: government is recognized as a 'soveriegn' authority in the understood meaning of this expression, but this does nothing whatever to specify its office. Is its engagement that of a guardian of a system of prescriptive conditions to be subscribed to in making choices (that is, an undertaking to 'rule'), or is it an engagement concerned with the choice or the custody of a corporate purpose and the direction of its pursuit (that is, an undertaking to 'manage' an enterprise)? Is it a nomocratic or a teleocratic engagement, or an equivocal mixture of the two? And again, is 'politics' (recognized as the enterprise of considering authoritative prescriptions from the standpoint of their worth and of recommending subtractions, additions, or amendments) concerned with the desirability of the civil conditions to be subscribed to in performing self-chosen actions, or is it concerned with the utility and expediency of managerial decisions and directions about the pursuit of a common purpose? Or is it an equivocal mixture of the two?

These, I think, are the crucial questions to be answered in trying to understand a modern European state and the office of its government, and I propose now to consider what has been thought and said in response to them in modern times.

This is not always easy to ascertain. Some writers have asked themselves these questions and have returned direct, if not always clear, answers to them and have given their reasons for thinking as they do. But for the most part what has been thought and said on these topics has to be extricated from writings whose main concern lies elsewhere—in the constitutions and the authority of governments, and in the apparatus of governing (that is, the power of rulers). And even where the character of a state as an association of human beings has been the centre of attention, what has been said is often foreshortened to a consideration of the office of government. Further, there is no reliable relationship between what may be thought on these questions and what may be thought on any of the others explored by writers concerned with modern European states. For example, the notion that civil authority derives from or may be explicated in terms of a compact or covenant is deliberately used by Hobbes in order to confirm that the association he is concerned with is a *societas*; the covenant here is to 'erect' and maintain a

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'sovereign' civil authority, not to unite covenanters in pursuit of a common substantive enterprise. The ruler is an emblem of the covenanters' choice to have a law and a ruler; he is not the trustee or director of a common substantive purpose. And others have used this notion in the same manner. But the idea of a compact or contract has also been used (and not less cogently) to describe the relationship between a many united in a common enterprise and the person or persons they authorize to be the contingent manager of its pursuit. And the 'pledge' in Sartre's writings is used (not without equivocation) to denote the choice of a common purpose in which a *universitas* is constituted.

But, with these difficulties in mind, I propose to take first the conditions, the beliefs, the sentiments, etc. which evoked the understanding of a modern European state in the terms of *societas* and sustained the resolve to maintain it in this character.

7. The use of the word 'state' to identify the emergent associations of modern Europe may be recognized as a masterpiece of neutrality; it revealed nothing about what might be thought to be the character of the associates or the condition (*l'estat*) they shared. Are they persons joined in keeping 'troth' with one another, a fidelity articulated in a 'law of the land'; or are they united in the recognition of a 'truth' articulated in a common substantive purpose? And 'government' (*gubernaculum*) was a scarcely less docile word. Was it the exercise of a judicial authority to enforce a fidelity (like the 'governor' of an engine, not making it 'go' but regulating the speed at which its parts move); or was it 'commanding for truth', energizing and directing a substantive enterprise? Who shall say?

There was, however, much that lay upon the surface of an emergent state, particularly one whose nucleus was a medieval realm, to suggest the former rather than the latter, even when we put on one side the relics of 'feudal' association which pointed in the same direction. Such a state was composed of persons, communities and fragments of communities, strangers to one another, separated in respect of language, moral imagination, customs, aspirations, and condition of living, moved by local affections and animosities, exhibiting the differences of religious belief commonplace in Christendom since the twelfth century, and each beckoned by such of the teeming novelties of the time as had happened to

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come its way, historic identities called from their seclusions by invading armies or intruding officials. Was more to be expected than that they should be joined in terms of a common law and a single ruler: Bretons, men of the Bourbonais, and those of the Cévennes; men of the Fen country, men of Kent, and inhabitants of Wales; Catalans, inhabitants of the valleys of High Aragòn, and men of the Olivenza? And was not the apparatus of governing at the disposal of the rulers of these states stretched even in creating and maintaining a formal union such as this? One might be over-impressed by these considerations: possibilities are made, not given. But there was enough here to suggest even to those devoted to some more substantial union that they should modify their expectations. The fears of Michel de l'Hospital and his companions were not fanciful when they reluctantly concluded that the realm of France *could not* be a *universitas* in at least one important respect (religious confession), and that were its 'sovereign' ruler to 'command for truth' he would destroy the association he ruled: he must be the custodian of a somewhat formal fidelity or preside over his own extinction. And although some sixteenth-century governments succeeded in imposing some degree of integration upon their subjects in this respect, it has turned out to be the least durable of their adventures in corporate unity.

But what was here, and elsewhere, a prudential conclusion drawn from the recognition of an obtrusive feature of many of the emergent states of modern Europe (the recognition that they were not manifestly the stuff of which *universitates* are easily composed), and what no doubt also reflected the medieval disposition to understand a realm in terms of law rather than managerial decisions, is capable of being theorized in terms of its conditions; that is, in terms of the characters of the associates. For, although the character of an association, that of the office of its government (if any), and that of the associates are conditionally interrelated, each implying the others, it is the third which constitutes the *causa foederis*; and an associate is what he understands himself to be.

In an earlier essay I have set out what may be called the definitive postulate of human conduct: an intelligent agent understanding (or misunderstanding) his situation and responding to it in terms of wants and choices of actions and related to others in bargaining for satisfactions, in the co-operative pursuit of common wants, and in the recognition of moral and prudential procedures and

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practices—what I have called a 'free' agent distinguished from a composition of biological or other urges. This postulate does not distinguish one agent from another and it does not entail any particular mode of association; it is the postulate alike of relationships of master and slave, of commanding and obeying, of ruling and being ruled, of the activities of directing, bargaining, inviting, and responding, persuading, teaching and learning, promising, loving, hating, deceiving, forgiving, etc., etc. It does not distinguish doing from suffering (which is always a response), nor does it distinguish 'rational' conduct from conduct ruled by passion or erroneous belief. What is postulated of the agent is not 'free will' but intelligence. Conduct is specified as actions and utterance, wise or foolish, which have reasons, adequate or inadequate, but not causes.

That the persons who were brought together to compose the states of modern Europe recognized all the interesting 'goings-on' *inter homines* as, in this sense, 'conduct', is I think unquestionable. It was assumed in Christian teaching where it was extended to the relationship between human beings and a God who makes rules, offers Grace as an aid to observing them, and punishes or forgives transgressions, but who is not the first cause or the 'law' of a process. It was received in the popular Stoicism of the time and in the soon-to-be-popular Epicureanism, in the recovered law of imperial Rome and in the much-studied writings of Aristotle and Augustine. Diverse images of human circumstance abound in medieval art and literature, the human condition was allegorized and theorized in many different idioms, 'free will', rationality, or an ever unresolved tension between passion and reason; but everywhere a human life is portrayed as an individual self-enactment, not a passage in a cosmic process, and human association as dramatic and intelligent, not organic, relationship. And this recognition of the human condition was not qualified when it was sometimes partnered with a belief that a man's final destiny, his 'salvation' or otherwise, was 'pre-ordained'. Neither here nor among the ancients have such quasi-deterministic beliefs ever stood in the way of the recognition of human actions and utterances as contingent responses with meanings which are not causes.

So far as it goes, then, and for the most part tacitly, this is what these people believed themselves to be: persons whose performances are to be understood by referring them to the beliefs, the

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sentiments, the wishes, and the choices of those concerned. Nevertheless, this condition may be greeted with various mixtures of revulsion, anxiety, and confidence; it is both gratifying and burdensome. The sort of self-fulfilment it promises is partnered by a notorious risk of self-estrangement or self-destruction. Here and there it might evoke the regretful response of the modern poet:

> Be proud, slow trees. Be glad you stones and birds,
> And you brown Arun river and all things
> That grow in silence through the hours of maytime—
> Be glad you are not fashioned in God's image.

And but few who reflected upon this combination of 'freedom' and responsibility could avoid the conclusion of the seventeenth-century poet:

> 'Tis glorious misery to be born a man.

But in considering the characters of those who were brought together or held together in a modern European state there is something to be noticed in addition to this tacit acceptance of a reading of the human condition in which the race of men is recognized to be saddled with an unsought and inescapable 'freedom' which in some respects they are ill-equipped to exercise; namely, the recognition of this condition as the emblem of human dignity and as a condition for each individual to explore, to cultivate, to make the most of, and to enjoy as an opportunity rather than suffer as a burden. What has to be reckoned with is a historic disposition to transform this unsought 'freedom' of conduct from a postulate into an experience and to make it yield a satisfaction of its own, independent of the chancy and intermittent satisfaction of chosen actions achieving their imagined and wished-for outcomes: the disposition to recognize imagining, deliberating, wanting, choosing, and acting not as costs incurred in seeking enjoyments but as themselves enjoyments, the exercise of a gratifying self-determination or personal autonomy.

This disposition or quality of character is not to be understood as a surrender to so-called 'subjective will', or as a relapse into the effortless indulgence of inclination, or as the canonization of 'conscience'; it is a difficult achievement. The self here is a substantive personality, the outcome of an education, whose resources are collected in a self-understanding; and conduct is recognized as

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the adventure in which this cultivated self deploys its resources, discloses and enacts itself in response to its contingent situations, and both acquires and confirms its autonomy. Nor does the experience of this disposition imply the worship of nonconformity, a devotion to arbitrary so-called 'self-expression', or a resolution to be different at all costs. The conduct it prompts is not composed of unconditional choices, and it does not require indifference to moral or prudential practices or aversion from any but self-made rules. It is composed of actions and utterances which reflect the contingent sentiments, affections, and beliefs this particular self has made its own, performed in its own subscriptions to practices whose resources it has made its own. The autonomy of such a self and the independence or originality of such conduct lies not at all in an unconcern for the conditions which specify the arts of agency. Nor, again, does this disposition forbid association in a co-operative undertaking to pursue with others a common purpose; what it requires is that such association shall be in terms of continuous choices to be associated which reflect the self-understanding of the persons concerned. In short, what is postulated and emphasized here is a collected personality, autonomous on account of its self-understanding and its command of resources it has made its own. And the half of this self-understanding is knowing its own limits.

A character in which this disposition is strong may exhibit it in a masterful egoism almost as careless of the concerns of some others as it is of their opinions, in a disdain for consequences or recognition, in a compelling versatility of response, or in a gracious or impatient intrusion into the affairs of the less well endowed. But, of course, since what we are considering is intelligent conduct, there is nothing whatever to identify this disposition with self-gratification. Such a character may display it habitually or only on important occasions, but he will always be a somewhat finicky chooser insisting upon doing things his own way. In his capacity for taking the initiative whilst others are laboriously marshalling their resources or seeking supporters, and in his ability to take responsibility upon himself and 'to go about his business as if he had not a friend in the world' (as Halifax portrays him), he may be recognized as a useful character to have about the place. Possessing more than others he can afford to lose more without becoming destitute. He is more likely to perish in some quixotic adventure

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than to die in bed; but, either way, he will have a death of his own as he has a life of his own.

Or this disposition may express itself in a modest and an unaggressive self-reliance, in a man's acquiescence in his own capacity for self-enactment, whatever it may be; and even quite humbly in a man's knowing how to belong to himself and a preference for being related to others in these terms. And it may go along with an undismayed acknowledgement and admiration of the superiority of others, an aristocratic recognition of one's own unimportance, and a humility devoid of humiliation. On the other hand, one who understands himself to be the messenger of a god, to be 'illuminated' from above, or to be the voice of destiny, who denies having any thoughts of his own to give meaning to what he does or says, and thus absolves himself from all responsibility for his actions and utterances, is a character of a different sort; he has resigned the character of a human being and has contracted out of the conversation of mankind. He is either an angel or a lunatic.

But further, this disposition or sentiment in favour of self-direction in conduct may be endowed with a more strictly moral character. Self-direction may be recognized not only to be useful, to be a source of considerable happiness, and to make life more interesting or more entertaining for everybody, but to be also an important virtue. And where personal autonomy is thus given a place in a moral practice, conduct will be recognized to have an excellence simply in respect of its authenticity and perhaps to be, in part, justifiable in these terms. In Luther's 'ich kann nicht anders', the emphasis is upon the *ich* which is not feeling or mere 'conscience' but judgement springing from self-understanding, and we have no difficulty in recognizing it as a sketch of a justification for his action. Of course this may be exaggerated into an exclusive moral ideal, excellence in conduct being identified with this authenticity; but this is a corruption which every disposition recognized as a virtue is apt to suffer at the hands of fanatics. And further, personal autonomy has been construed (by Rousseau and others) as a hypothetical organic feeling of self-identity, dissipated in reflective consciousness and unable to survive in conduct *inter homines*, or as the 'idiocy' of idiots; and conduct springing from the self-understanding of an intelligent agent is, in consequence, declared to be necessarily unauthentic. But these and other such follies need not detain us.

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What we have to do with, then, is a disposition to cultivate the 'freedom' inherent in agency, to enjoy individuality, and added to this the disposition readily to concede virtue to this exercise of personal autonomy acquired in self-understanding. And we are concerned with them because this is a historic disposition notable not only in the *mœurs* of modern Europe but also reflected in the character attributed to states and the office attributed to governments.

But it would be a mistake to suppose that it first emerged in modern times. Like anything else in the modern European character this sentiment of individuality appeared there as a modification of the conditions of medieval life and thought. It was not generated in claims and assertions on behalf of individuality but in the gradual and intermittent dissolution, beginning perhaps in the twelfth century, of the self-contained seigneurial estate where choices, performances and responsibilities were circumscribed by an accepted prudential routine, of familiar relationships understood in terms of status and rarely extricated from the analogy of kinship, and of the powerful moral and religious orthodoxy which had been settling upon the Latin Christian world after the period of 'conversion' was over. It displayed itself in the persons of younger sons making their own way in a world which had little place for them, of foot-loose adventurers who left the land to take to trade, of town-dwellers who had emancipated themselves from the communal ties of the countryside, of vagabond scholars, in the speculative audacities of Abelard, in venturesome heresy, in the lives of intrepid boys and men who left home to seek their fortunes each intent upon living a life for 'a man like me', and in the relationships of men and women. It was reflected in the Latin and vernacular poetry of that memorable spring-time of the European spirit, in the singers and the songs of the Provençal idiom and in the admired characters of the men and women celebrated in the *Chansons de geste*: the proud and reckless *autonomia* of Roland which makes Roncevalles a memorable event in the history of European moral imagination, and the note of his horn an imperishable utterance, echoing down the centuries. And it was expressed in the morality of the Christian Knight (Parzival or Gawain) whose calling it was not to win victories, but to show *triuwe*, fidelity, in every human situation.

The vicissitudes of this disposition in the following centuries

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make a long and intricate story; not of steady diffusion but of climaxes and recessions, of confidence and apprehension, of extension to acitivities thitherto untouched by it, of modest and of magnificent endeavours, but of mounting self-consciousness. It emerged in the resuscitated heresy of the Albigenses, and in the Christianity of St. Francis; Burckhardt (who may still be recognized as its most perceptive historian) has described how Italy in the thirteenth century swarmed with serious and trivial expressions of this disposition; it was celebrated heroically in the sagas of the north, dourly in the sordid transactions of the Nibelungen, defiantly in Aucassin's *En paradis qu'ai je à faire*?, and lyrically in the loves of Tristan and Iseult; it was translated by Occam into a philosophical theorem; it was crowned in the crowning of Petrarch in 1341; it is alive in the characters of Boccaccio, and the Canterbury pilgrims of Chaucer are engaging illustrations of the poet's maxim, 'let they ghost thee lead'; it is expressed elegiacally in the poems of Villon, with Teutonic seriousness in the Meistersinger of Nuremberg, flamboyantly by Cellini, and profoundly in the devotions of Thomas à Kempis and of St. John of the Cross. It was both evoked and endowed in the extended use of money during these centuries, it was promoted by the disruption occasioned by the bubonic plague, it was parodied in the vast emotional and intellectual chaos of the fifteenth century, it receded before the craft guilds when they imposed corporate organization upon towns which had thitherto been associations of individuals, and the universities were less friendly to it when they became corporations of licensed teachers, servants of a curriculum.

Nevertheless, the early years of modern European history were distinguished by the confidence with which this disposition was embraced, the energy with which its intimations were explored, and the scale of the engagement. Every practical undertaking and every intellectual pursuit revealed itself as an assemblage of opportunities for self-enactment; even religion became once more a matter of choice. With some, no doubt this disposition was all that was left to them after the collapse or the destruction of communal life to which the emergence of states made so considerable a contribution; to pick it up as best they could was to make a virtue of necessity. But they floated on a rising tide; it was a moment when this disposition burned with 'a hard gem-like flame' and it received its classic expression in the *Essais* of Montaigne and (more

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formally) in Charron's *De la sagesse*: a reading of the human condition in which a man's life is understood as an adventure in personal self-enactment. Here there was no promise of salvation for the race or prevision that it would late or soon be gathered into one fold, no anticipation of a near or distant reassemblage of a 'truth' fragmented at the creation of the world or expectation that if the human race were to go on researching long enough it will discover 'the truth', and no prospect of a redemption in a technological break-through providing a more complete satisfaction of contingent wants; there was only a prompting not to be dismayed at our own imperfections and a recognition that 'it is something almost divine for a man to know how to belong to himself' and to live by that understanding. Augustine come again to confound both Gnostics and Pelagians. And these were the lineaments of that *âge d'or* the birth of which Erasmus discerned in the confusions of his time and on which he congratulated the world, little knowing the revulsion it would evoke.

The disposition to cultivate the 'freedom' inherent in agency (and not to regret it) and to recognize conduct in terms of its authenticity had been noisily proclaimed in fifteenth-century Italy; in the writings of Pico della Mirandola it had assumed the proportions of a new image of 'human nature', not Adam, not Prometheus, but Proteus—a character distinguished on account of limitless powers of self-transformation without self-destruction; Rabelais had explored it with unequalled insight and gusto; with Luther it had been a pretext for a protest against go-betweens in the relations of men and God; Cervantes created a character in whom the disaster of each encounter with the world was powerless to impugn it as a self-enactment. It was wantonly exploited by the libertine, Pascal recognized it as an abyss of loneliness, and it was naïvely claimed by Buffcoat as the 'right' of every 'poorest he'. It was reflected in family relationships, in manners of living which gave precedence to privacy, and in domestic architecture; it displayed itself in religious belief, in industry and trade, in art and literature; it was portrayed in ballad, in drama, and in novels; and for the better part of two centuries it was the undisputed starting-place of most reflection on moral relationships. And although, later, it was almost buried under a mountain of rubbish, confused with trivial liberations, romanticized, mistaken for the exercise of 'subjective will', confounded with a 'sacred inner light' and with

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a banal individualism, and finally corrupted in being confused with 'sentience' (a capacity for feeling pleasure and pain) or with a so-called 'libidinal instinct', it has remained the strongest strand in the moral convictions of the inhabitants of modern Europe.[1]

Our business, however, is not with the modern history of this disposition, which in modern times has inspired so much humble determination and so much flamboyant ambition; and of course it was not the only voice to be heard. But I have dwelt upon it at some length because what we have to consider is the understanding of the character of a state and of the office of its government which reflected this reading of the character and condition of the associates concerned. And it is scarcely to be disputed that the state which corresponds with such persons is some version of what I have called civil association, the character of which I have already explored in some detail and need not now rehearse. Persons understanding themselves and understood in terms of this disposition postulate a state understood in terms of *societas*. If they are to be *cives* they must be *socii*; that is, joined in the acknowledgement of the authority of a practice and not in respect of a common substantive purpose. Of course, there is nothing in the character of such persons to stand in the way of their joining with others of their kind in pursuing agreed common substantive purposes and thus becoming members of a variety of enterprise associations in which they have chosen to invest a portion of their energies, their talents, and their wealth and from which they may extricate themselves when they can no longer acknowledge as their own the contingent managerial decisions constituting the pursuit of these purposes. Indeed, chosen corporate association is so far from conflicting with their character that they may confidently be expected to undertake it as a device for satisfying common wants. But a state, on any reading of its character, is a comprehensive, exclusive, and compulsory association. And while we shall have to consider later the merits and the difficulties of understanding it as itself a corporation aggregate identified in terms of a common substantive purpose

[1] The contraction of all this into a history of so-called 'bourgeois market-society capitalism' is a notorious botch. Of course, this disposition displayed itself in commerce. But anyone who believes that Frère Jean des Entommeurs or Parini were 'possessive individualists', or that it was of such persons that Pico della Mirandola, or Montaigne or Hobbes or Pascal or Kant or Blake or Nietzsche or Kierkegaard wrote is capable of believing anything.

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and of a government whose office it is to take the prudential managerial decisions concerned with its pursuit, it is clear enough that such persons as we are now considering are not the stuff of which a state thus understood could be composed.

We are concerned, then, with that strand of modern European thought in which a state has been understood as an association of persons (*cives*) in terms of a law recognized as a system of prescriptive conditions (*respublica*) indifferent (not merely impartial) to the satisfaction of substantive wants, to be subscribed to by these persons in making their own choices about what to do or to say in their transactions with one another; in which the office of government is recognized as that of custodian of *respublica*, endowed with the authority to alter or repeal any of its component rules, to declare their meaning in relation to contingent situations, to penalize inadequate subscription to them by non-recognition, fine, or other punishment, to 'police' the association, to guard against its destruction, and to claim from the associates the expenses incurred; and in which 'politics' is recognized as the consideration of *respublica* from the standpoint of the desirability of any of the conditions it prescribes and to recommend specific change.

This understanding of a state in the terms of *societas* is, of course, capable of a variety of idioms and it does not entail any particular constitution of government. It reflects much that had been brought to the surface in the character of a medieval realm and also many of the contingent circumstances of the emerging states of modern Europe, but in order to emphasize its chief theoretical postulate I shall call it the *civitas peregrina*:[1] an association, not of pilgrims travelling to a common destination, but of adventurers each responding as best he can to the ordeal of consciousness in a world composed of others of his kind, each the inheritor of the imaginative achievements (moral and intellectual) of those who have gone before and some joined in a variety of prudential practices, but here partners in a practice of civility the rules of which are not devices for satisfying substantive wants and whose obligations create no symbiotic relationship.

In modern times, the *civitas peregrina* and the office of government and the *utilitas publica* which belong to it are commonly to be met with at the level of implicit assumption in writings, arguments, and utterances concerned with other matters and often expressing

[1] See Peter Brown: *Augustine of Hippo* (1967), ch. 27.

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divergent opinions in regard to these matters: with the constitutions of governments, with the 'derivation' of the authority of rules and rulers, with contrivances for limiting the alleged menace of 'sovereign' authority, with the apparatus of governing, with legislative proposals, and with the taxation of subjects. And, according to the context, this implicit assumption may be recognized as a 'faith', an aspiration, or an alleged historic condition.

For example, although his attention was usually centred upon the enterprise of founding and maintaining a state in difficult circumstances, it never occurred to Machiavelli to doubt that the state to be founded and maintained was an association of this character. He assumed a human being to be an intelligent agent seeking the satisfaction of his wants in self-chosen actions and utterances calling for the responses of others, each guided by *la sua fantasia* (his understanding of himself). He believed that there were occult forces (*necessità* and *fortuna*) of which account must be taken, and he recognized that a man might be joined with others in enterprise association such as that of a guild or a sodality. But a state was a contingent, somewhat uncertain, association of such persons joined, not by choice in pursuit of a common purpose, but in the recognition of the authority of a law administered by a powerful ruler in comand of dependable military resources. This ruler was neither a *seigneur* concerned with the management of a landed estate, nor a prophet concerned to save souls, nor a private enterpriser concerned with self-gratification: the first, Machiavelli (conventionally and somewhat rashly) identified as a Turkish potentate who had no respectable European provenance; the transient communal *euphoria* generated by a Savonarola was no substitute for civil association; and ruling was not the exercise of a *libido dominandi*, choosing, imposing, and managing the pursuit of a common purpose. Rulers rule 'subjects'. And as creators of practices of civil intercourse and as their custodians, Machiavelli identified them as memorable benefactors of mankind.

And further, although they were not directly concerned to expose or to characterize it, a state understood in the terms of *societas* was assumed by those who drew up the American Declaration of Independence, by the authors of the Federalist papers (particularly James Madison), and by the framers of the Constitution; and it is the presupposition of the Déclaration de Droits de

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l'Homme et du Citoyen. It is the common assumption of such otherwise divergent writings as *The Trew Law of a Free Monarchy*, Locke's Treatises on government, and Algernon Sidney's *Discourses*:[1] it is what joined the otherwise discordant writings of Burke, Paine, and Lord Salisbury; and it informed Ireton's argument with Buffcoat about civil rights. It was what the Old Whigs (while thinking of something else), and also some of their constitutional opponents, dreamed England might be; and what Montesquieu, de Lolme, and other continentals of the time thought England was. It hovered equivocally in the background of the thoughts of the early proponents of the so-called *Rechtsstaat* and was abandoned by the later. And, confused with the ambiguous principle of 'the rule of law' and with the sanctity of 'conscience', it remained for a short while lodged in the interstices of English and Continental 'liberal' constitutional doctrine.[2] With Ranke it was a historic European experience; with de Tocqueville a political faith; and it was what Lord Acton referred to when (somewhat optimistically) he thought of modern European history as the 'history of Freedom'.

In the writings of others, the *civitas peregrina* becomes an understanding of a modern European state described in terms of its characteristics. Benjamin Constant did this, brilliantly but informally, in *De l'esprit de conquête* (1813) and in *Principe de politique* (1815). And in his famous lecture of 1819 (*De la liberté des anciens comparée à celle des modernes*) the features he attributes to *la liberté*

[1] I would add Filmer but for the suspicion that for him a civil ruler was, at least in part, a *seigneur*, the inheritor of Adam's proprietary right over the resources of the earth.

[2] 'Liberalism' was concerned what with I have called the menace of 'sovereign' authority and with constitutional devices to reduce it. If it had any theoretical understanding of a state it was that of an association in terms of assured 'natural rights' recognized as civil conditions to be subscribed to in conduct, and the menace was identified as the propensity of rulers to inhibit the enjoyment of these rights by the exercise of lordship. But these 'natural rights' came to include the enjoyment of certain substantive conditions of things capable of being assured only in the exercise of lordship (e.g. employment, medical attention, education) and consequently what was menacing became, not a lordly managerial government, but a government which failed in its lordly office of assuring to subjects the enjoyment of these conditions or one which imposed other similar but deprecated conditions, like religious uniformity. Locke showed his imperfect grasp of civil association when he attributed to the Executive (and not to the Judicial authority) 'the power which should see to the execution of the laws.' *Second Treatise*, § 144.

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des modernes are his summary of the important characteristics of a state understood in the terms of *societas*:

> the right to be subject only to the laws, the assurance of being neither arrested, nor detained, nor put to death, nor in any way mistreated, by an arbitrary act of will of some one individual or of many. It is for each the right to express his opinion, to choose his occupation and ply it in peace; to dispose of his property, be it abusively, to come, to go, without any permission and without rendering an account of his motives or steps. It is for each the right to assemble with other individuals, either to confer with them upon common interests, or to practise the religion of his choice, or merely to use his leisure conformably to his inclinations or indeed his fancy.[1]

And there have been others who have addressed themselves seriously and in detail to the task of exploring this notion of a modern European state in terms of its characteristics, notably Montesquieu and the young Von Humbolt.

De l'esprit des lois explores many different themes, not always clearly related to one another; but its central concern is with the character of a modern European state and the office of its government. This is somewhat obscured by Montesquieu's unfortunate choice of names to identify the ideal characters in terms of which he conducts his investigation: they are words signifying constitutions of governments—*despotisme*, *république*, and *monarchie*. But that he is concerned with modes of association and with the offices of governments (not their constitutions) becomes clear in his specification of these ideal characters. Each is the association of *personae* recognized in terms of a certain disposition, and in each 'government' is understood in terms of the performance of a certain office in relation to the associates. Thus, each of these ideal characters is a mode of association distinguished by a *principe* (the disposition of the associates) and a government distinguished by a *but* in relations to this *principe*. These ideal characters are offered as aids to reflection in the investigation of the identity of a modern European state. Of course, no historic state can be expected to

[1] Constant goes on to notice what are not, strictly speaking, features of the character of this state or of the office of its government but are recognizable as devices to mitigate the alleged menace of sovereign civil authority: 'the right of everyone to exert some influence upon the administration of public officers, be it by contributing to the choice of all or some officials, be it by making representations, petitions, requests, which authority is more or less bound to take into account'.

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correspond exactly to any of these ideal characters, and in trying to understand any particular state there are contingent conditions to be taken account of (such as climate, the religious beliefs of the associates, and a constitution of government) which are not represented in the features of these ideal characters; nevertheless every such state may come to be better understood by using these ideal characters as instruments of inquiry. But Montesquieu's main concern was to perfect this instrument of inquiry and to use it, not to distinguish between historic states, but to specify what he thought to be the essential character of a modern European state as it had come to be. And no other writer has so sharply sifted the associational experience of modern Europe.

The bond of the mode of association labelled *despotisme* is terror. The distinguishing disposition of the associates is fear of a potentate who is known to them only as a capricious will, whose utterances are commands, who gets his way with them by the exercise of force, and the *but* of whose so-called 'government' is self-gratification. The considerations in this mode of association are *la crainte* and *la force*, and Montesquieu finds two important things to say about it. First, it is scarcely recognizable as a mode of human association: it is an outrage against human beings, reducing them to slaves of another's will. Secondly, it is unknown in modern Europe: its provenance is Turkey, Persia, Japan, Russia, and China. This somewhat reduces its value as an ideal identity in terms of which to investigate the character of a modern European State, but it may be retained as a useful aid to the detection of a contingent propensity in European states, a tendency which Montesquieu thought to have been intimated in the France of Richelieu and the rule of Louis XIV.

The persons joined in the mode of association called *république* are distinguished by a disposition to prize *la vertu*. Of course they are not equally virtuous, but a devotion to *la vertu* is the *principe* of association. This Montesquieu identifies with *renoncement à soi-même* and commitment to *le bien public* understood as a common interest or purpose, a substantive condition in which the associates have learned to *goûter les mêmes plaisirs et former les mêmes espérances*. Persons united in this manner have no private *personae* or interests; they are joined, not in love of one another or in that care for one another's wants which recognizes and responds to differences, but in devotion to a common purpose. They identify

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and understand themselves as servants of this purpose and consequently there is no place for *étranges* in this association. Exactly what this common purpose is remains somewhat obscure; it is described as *l'amour de la république* which is said to entail *l'amour de égalité* and *l'amour de la frugalité générale*, etc. But however it may be specified, and in spite of Montesquieu's insistence that it is a moral condition, it is the continuous satisfaction of some common substantive want or wants. In short, the mode of association for which the word *république* stands is that of a corporation aggregate; and appropriately, its 'government' is said to be entrusted to each member of the association. There may be laws, but they will be prudential contrivances for promoting the common substantive interest, such as the 'agrarian' law in which land is more or less equally divided; there may be a Senate, the custodian of the *mos majorum*; there may be magistrates, but they will dispense a *disciplina domestica*. And the *but* of this 'government' is, of course, the proper management of the pursuit of this common purpose. But in *l'état républicain* the most important instrument of control will be the initiation of successive generations into the 'mystery' of the common purpose being pursued; what Montesquieu called *l'éducation*. The considerations in this mode of association are, then, *la vertu* and *la puissance*: ruling is authoritative tutoring.

Besides some observations about contingencies, Montesquieu finds three important things to say about this mode of association. First, although it is a genuinely human mode of association and (in spite of its emphasis upon *médiocrité*) wholly admirable, it is difficult: to be bound to the pursuit of a common substantive purpose is an onerous engagement calling for unremitting attention and continuous self-criticism. To be associated in this manner is itself a way of life. Secondly, this mode of association is not notably 'free': the pursuit of a common purpose allows some measure of choice about what to do or to say in contingent situations, but it is seriously restrictive; conduct here is either correct or incorrect. Thirdly, *l'état républicain* is unknown in modern Europe: no modern European State is recognizable as a corporation aggregate, let alone a corporation devoted to *la vertu*. Montesquieu believed that in antiquity there had been such states: Sparta, Athens, and the Roman Republic in its foundation and the early years of its history. He knew of modern European states which had so-called republican 'constitutions', but none of

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them displayed the characteristics of this mode of association. And for examples of such association he was obliged to fall back upon communities in no sense recognizable as states: the Canton of Berne and the New England community presided over by William Penn on the Delaware.

La monarchie is the expression Montesquieu uses to identify the third of his ideal modes of association. In describing its characteristics he is more than usually concerned with contingencies, and perhaps this is because he was more fully acquainted with states with monarchical constitutions than with despotisms or republics. And his attention is more fully fixed upon what he calls *le gouvernement monarchique*, perhaps because *la monarchie* is the only one of the three which is, properly speaking, 'ruled': the 'slaves' of a despot are *entrainé* by his 'will', and the citizen of a republic is educated and managed. Further, he finds republican and monarchic association to have a significant affinity which distinguishes them from despotism: namely, *la modération*. Nevertheless, there is no doubt that for him *la monarchie* stands for an ideal mode of association which is categorially different from either of the others: monarchic and republican association may have some features in common, but as modes of association they cannot mix.

What distinguishes *la monarchie* as a mode of association is its character as a many joined solely in terms of rules of conduct: *la loi*. The associates, here, are not related to one another as seekers of the satisfaction of individual wants, or in terms of a common want, but in respect of a system of law. Republican association (unlike despotic) is not innocent of law, but there 'laws' are instrumental devices for promoting the pursuit of a common purpose and they are relatively insignificant instruments for the control of conduct; their place is usurped by education and management. But law in monarchic association is a system of conditions, indifferent to the satisfaction of wants and reflecting no common purpose, to be subscribed to and used by persons in making their own choices of what to do or to say in contingent situations, and the associates are joined solely in recognition of the authority of these conditions. In place of a common substantive interest they have a common concern that the obligations prescribed in *la loi* shall be respected and that this civil association shall not be disrupted or destroyed.

Montesquieu identified the *principe* of this mode of association

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as a disposition which he called *l'honneur*. This word had, of course, important circumstantial associations, but he was concerned to detach it from contingencies and specify it as a disposition capable of being the partner of *la crainte* in despotism and *la vertu* in republics; and he succeeded well enough in this difficult undertaking. It is the disposition to be and to find virtue in being a distinct person, to be apt to recognize and respond to 'distinctness' (rather than distinction) in others, and to value the otherwise insidious symbiosis of corporate association only where it has been deliberately chosen and is, thus, itself an emblem of 'distinctiveness'. Persons of this disposition may be 'self-interested' in the sense of being readily moved by self-preference, and Montesquieu (beguiled by a strand in contemporary moral theory) often writes of them in these terms. And this, perhaps, is the counterpart of his unfortunate identification of republican *vertu* with *renoncement à soi-même*. But what is important is that the association of such persons does not depend upon (though it does not exclude) their sympathy for one another's wants, upon acting in a benevolent (or any other) motive, or upon their being joined in 'tasting the same pleasures and having the same hopes'. It is association in respect of fidelity to one another in terms of a system of rules of conduct. And the *but* of *gouvernement* here is not the promotion of a common substantive interest, but the custody, care, interpretation, and administration of the conditions imposed upon conduct in *la loi*. The considerations in this mode of association are, then, *la loi* and *le pouvoir*:[1] rulers are not wills to be gratified, nor are they tutors or overseers; they are legislators and judges with closely specified offices who rule 'subjects'. In short, what Montesquieu sketched under the heading of *la monarchie* is the *civitas peregrina*, a civil condition in which every enterprise is 'private' and none is immune from the 'public' considerations specified in *la loi*.

Of this mode of association Montesquieu says that it is preeminently human: intelligent relationship in terms of understood norms of conduct. It is less onerous and more relaxed than relationship in terms of an inexorable common substantive purpose, be it *la vertu* or any other. It requires no elaborate 'education' in a way of life, and it may be enjoyed between relative strangers. Unlike

[1] That is, the exactly specified authority of a ruler distinguished from *puissance*, the less specified authority of a 'leader' or 'manager'.

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republican association, it is not itself a full-time occupation. He says, further, that it has a freedom peculiar to itself. The corporate associate is free in respect of his association with others in pursuit of a joint substantive purpose being a choice of his own and in respect of his being able to acknowledge corporate decisions as his own; and it is this consideration which makes it so difficult to recognize a state as at once a corporation aggregate and an association of 'free' men. But these associates are free precisely because they are not joined in the pursuit of any common purpose but only in respect of their common acknowledgement of the authority of a system of law which does not and cannot specify substantive conduct and which does not require approval of the conditions it prescribes. And Montesquieu's conclusion is that the character of a modern European state more nearly corresponds to this ideal mode of association than to any other. The states of modern Europe, of course, represent this mode of association either more or less closely, and each has its own constitution of government; but the main reason for identifying them in terms of it is that the characters of all associations are relative to the dispositions of the associates, and this mode of association corresponds to and accommodates the dominant moral disposition of the inhabitants of modern Europe: the historic disposition to be 'distinct'.

But before the end of the sixteenth century the character of a modern European state had begun to attract the attention of writers who identified it, in terms of its features, as a *societas* but who were concerned to theorize it in terms of its postulates. Most of these writers were also concerned with other matters, with the so-called 'origin' of civil association, with the authority of rulers and the constitutions of historic governments, and in this respect they were often divided; but what unites and distinguishes them is the recognition of a state as a certain mode of association, an engagement to theorize it in terms of its postulates, and a *methodus* of theoretical understanding. As theorists they do not speak with one voice, they are often critical of one another's apparatus of theoretical understanding, some are more ambitious than others in respect of the distance they press their theoretical inquiry, none is without minor equivocation, and further there is the usual pushing and pulling to get the parts to fit; but they are alike in their recognition of a state in the terms of *societas*. The most accomplished of

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these writers are Bodin, Hobbes, Spinoza, Kant, Fichte, and Hegel.[1] A state understood, somewhat roughly, in these terms is perhaps to be found hidden in the writings of Hume, it hovers (in a theological idiom) over Locke's consideration of the so-called limits of civil authority, and it is sketched with characteristic ambiguity in some of the writings of J. S. Mill. The most intrepid and the least equivocal account is that of Hobbes; *Leviathan* is a work of art of superb integrity. But, by way of illustration I shall say something about only the most sketchy and the most sophisticated versions; those of Bodin and Hegel.

Central to Bodin's thought is the recognition of a state (*République*) as an association of human beings distinguished by a certain mode of relationship; and his concern (or one of his many concerns) is to investigate this relationship in terms of its postulates. The first of these is the character of the associates. He identified a human being as a 'free' agent; that is, a distinct intelligent being whose actions are choices to procure imagined and wished-for satisfactions and who acts not in a void but in a situation of his 'own'. The theoretical implications of this character are that in order to understand a man's actions, his thoughts (not his so-called 'instincts' or his chromosomes) must be investigated and that an agent and his 'own' are inseparable. The practical implications are that specifically human relationships are those in which persons acknowledge one another as 'free' agents and that they are relationships between an 'I and mine' and a 'you and yours'. And if, as is sometimes the case with Bodin, this human 'nature' is recognized as a divine endowment, human beings may be said to have a God-given right to do what they will subject to the recognition of these conditions, which constitute 'the rule of reason'.

Such 'autonomous' persons are capable of ignoring these conditions; a man may seek to procure a satisfaction by using another with 'violence'. But they may be, and commonly are, properly related to one another in intermittent transactions for procuring individual satisfactions, in corporate associations for the promotion of common interests, or joined in friendship or in love or in

[1] Bodin, *Les Six Livres de la république* (1576); Hobbes, *Elements of Law* (1640), *De Cive* (1642), *Leviathan* (1651); Spinoza, *Ethica* (1674), *Tractatus Politicus* (1672), *Tractatus Theologico-Politicus* (1670); Kant, *Metaphysik der Sitten* (1796); Fichte, *Grundlage des Naturrecht* (1796); Hegel, *Grundlinien der Philosophie des Rechts* (1821). There are, of course, other and more recent attempts to theorize a modern European state in the terms of *societas*.

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sharing some beliefs about the world. In these associations and their like persons are related in the performance of substantive actions to procure agreed satisfactions; 'prosperity', 'happiness', 'truth', or the enjoyment of the blessings of God. There may be rules, routines, or rituals to observe, but if so they are no more than aids to the satisfaction of the wants concerned. And in this kind of association the 'free' agency of those concerned is not denied when and because it is itself relationship voluntarily entered into and sustained by the continuous choices of the associates concerned.

But, in Bodin's view, there is another mode of association; namely, relationship in terms of *puissance* (authority) and obligation. Bodin understood a family (*un mesnage*) to be relationship of this sort: association in terms of the authority of a *chef de famille*, conditional in respect of wife and servants, absolute in respect of children.[1] But a state is the most remarkable example of this mode of association: ruled not managed association, relationship not in terms of substantive actions but of obligation to subscribe to conditions in choosing actions, communion not in terms of the pursuit of a common substantive satisfaction, of love or affection, but in terms of *la justice*, of *la vertu*, and of obligation related to a *puissance souveraine*.

A state, then, is persons, families, groups, corporate associations, etc., each pursuing its own distinct and different purposes and all related to one another in the recognition of a sovereign authority. It is not one more grouping of optative persons, another *solidità* or *philitia* added to those already being enjoyed; it is not association to procure a superordinate satisfaction, a general 'prosperity' or 'happiness'; and it is not association concerned to give extra impetus to the satisfaction of wants or to do this in respect of particularly meritorious wants. It is relationship in terms of civility; association in being just to one another. This is a severe relationship. Justice is not *ployable*; indeed, its virtue is to be strict. And Bodin thought it could not come easily (and perhaps not at all) to persons *all* of whom were total strangers to one another, wholly ignorant of mutual affection and co-operative enterprise.

[1] Bodin's *mesnage* and Aristotle's *oikia* are two different modes of association. The authority of a father over his children is, for Bodin, 'natural' and derives from his having 'created' them. The family is a private association but, like any other, it is also public in respect of civil conditions.

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Consequently, he recognized that relationships of *amitié* were not only the source of all the sweetness of human intercourse but that they also provided an indispensable preparatory education for civil intercourse. Indeed, he was inclined to understand a state as an association of families, corporations, etc., rather than of otherwise unrelated persons. Nevertheless, *République* was not itself relationship of this sort; it was capable of embracing strangers as well as friends, persons and groups of divergent affections, interests, ambitions and beliefs no less than persons joined in common purposes.

Civil authority is the attribute of an office; it is *la puissance de donner loy à tous en général et à chacun en particulier*, to administer this law in judicial proceedings, and to authorize and appoint to subordinate magisterial offices. It is exercised by those who are, for the time being, the rightful occupants of this office. Association in terms of civil authority and civil obligation is, then, relationship in terms of law. And civil laws, unlike the rules of corporate association, are conditions to be subscribed to in conduct which do not relate to the substantive aims of conduct; they are moral, not prudential, rules. They do not specify a public 'interest' (there is none), but a public concern with the manners in which private interests are pursued.[1] Bodin writes of such laws as *commandments* and as the products of legislative 'will'; *puissance* is always a right to command and to be obeyed. This confusion between law, will, command and obedience is unfortunate, but it is not crippling. It does not involve him in the belief that a law may be specified as the act of an identified 'will' or that what it prescribes is the performance of substantive actions.

Civil authority, then, is a right to make, to amend, to repeal, and to administer laws. A mere *cité* is distinguished from a state in having a judicial but no such independent legislative authority. Bodin believed that the authority to make law should be sparingly exercised, but it is only in terms of this right vested in its rulers that the conditions of civil association are recognizable as a human responsibility. Nor is there any mystery about how such a legislative and judicial office acquires its authority. Civil *puissance* is not a divine endowment, it is not a right derived from some antecedent proprietary right (seigneurial rule), nor is it the outcome of some

[1] Bodin recognized quasi-laws, called *ordonnances*, which he regarded as rules of utility.

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notional or historic act of endowment, and it does not derive from the virtue or the charisma of the persons to exercise it. It is continuously acquired and enjoyed in the continuous recognition of those who are obligated to it. And if it be asked how such compulsory subjection to civil authority spares the imprescriptible autonomy of a human being, the answer is that it obliges, not to substantive actions but only to conditions to be subscribed in choosing actions, and that it does not require approval of these conditions but only the recognition of their authority. And this 'liberty' of *cives* cannot be increased by their having a share (inevitably fictitious) in the exercise of civil authority, although for other reasons this may be desirable and would not itself compromise civil association. There is nothing in civil association that *requires* a monarchic, an aristocratic, or a democratic constitution of government.

But civil rule is not only the exercise of *puissance*; it is the exercise of a *puissance souveraine*, *puissance absolue*. Bodin, of course, is not so silly as to attach these adjectives to anything but authority: the notion of absolute power (*la force*) is meaningless. And they have for him a specific reference. To occupy a legislative and judicial office endowed with *puissance souveraine* is not to be subject to a superior authority and not to have a non-authoritative partner with whom one must negotiate; it is to have the sole and unconditional authority to make, to amend, or to repeal any law;[1] and it is to exercise a *puissance perpetuelle*, that is, a continuous (not an everlasting) authority. (A state, for Bodin, is a human invention, and everything human is perishable.) It means that the conditions imposed in these laws govern (but do not take the place of) all other rules, and that no action or utterance is, in principle, exempt from the obligation to recognize civil conditions. A *puissance absolue* is not an unconditional authority; it is an authority whose only conditions are inherent. And since for Bodin civil authority is the right to declare conditions to be subscribed to in choosing actions, this necessarily excludes (for example) the right to distrain upon the property of a subject or to impose a tax. These are demands satisfiable only in substantive responses and

[1] Bodin writes of this as an authority not bound by its own legislative acts, but he means only an authority which has the right to consider its own legislative acts in terms of their desirability and to alter them, not one which has the right to ignore the rules it has made.

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therefore require the express agreement of those to whom they are made.

All this, no doubt, leaves many important questions unanswered, and even unconsidered. But so far as it goes it is an understanding of a modern European state in the terms of *societas*. The associates are distinct persons of varying talents, capable of affection and co-operation, disclosing and enacting themselves in many different self-chosen engagements, some more admirable than others, and entertaining many different beliefs, but related here in a formal manner. *La vertu* is not a substantive perfection; it is a person disposed to being just to other such persons. And *la fin principale de la République bien ordonnée* is to specify a practice of just conduct and to keep the conversation going in terms of a civility among persons who have a propensity not always to be conversible.

Bodin's achievement was to have perceived what was afoot in the sixteenth century (a passage in the transformation of *un domaine* into *un estat*) and to have attended to it with care; and being a man full of thoughts, mainly jurisprudential, he employed them to theorize the character of this emerging mode of association. Hegel also was a man of acute reflective observation, deeply concerned with the political circumstances and dispositions of his time; a resilient European who recognized what was afoot as a modernity to be responded to. He thought he discerned in the French Revolution and in the Napoleonic shake-up of Europe the emergence of human associations in many respects unlike (and superior to) anything to be found in the earlier history of European relationships, and he calls these associations 'states', meaning 'states in the proper sense'. He identified them, first, in terms of some negative characteristics. They would not be persons related in terms of a religious confession, or of a so-called 'national consciousness', or of love, or of virtue, or of the directions of a lordly manager and his agents. Further they would not be (what Fichte and St. Simon thought they were destined to be) associations for the protection, promotion, or reconciliation of the 'interests' of individuals in their concern to satisfy their contingent wants. Indeed, he took special care to distinguish this sort of enterprise association and he had some deep misgivings about it on its own account in its current form of industrial enterprise. On the positive side he was less detailed. He seems to have thought of these emergent associations as persons related to one another in the enjoyment of a self-

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chosen multiplicity of conduct and associated in terms of whatever was required to defend it against internal collapse (into anarchy or uniformity) or external destruction. Thus, at the level of *Zeit-probleme*, Hegel's concern was to urge his generation to bend itself to the task of promoting the emergence of such associations. He never doubted that they were human inventions and he thought their emergence promised to provide a 'home' for the lost and distracted human beings which he and Hölderlin imagined they saw around them.

But Hegel was a philosopher, determined to understand everything in terms of its postulates and engaged in a tireless exploration of the conditions of conditions which nevertheless recognized the conditional autonomy of whatever revealed itself to be conditional. And in the *Philosophy of Right* he was concerned not merely to characterize and to recommend these (as he thought) emergent 'states', but to theorize the *mode* of association in terms of its postulates and to present it in its place in a philosophy of human association. What I have to say is no more than a brief account of his thoughts on this theme, omitting much that falls within the folds of his reflection, rearranging the argument, and taking short cuts with some of its transitional passages.

He begins with human beings. These he recognizes neither as biological organisms moved by genetic impulses, nor as psychological egos, but as individual exhibitions of *der Geist*: intelligent persons. *Der Geist* is not, for Hegel, a substance or an impersonal 'force' loose in the universe. It is reflective intelligence rather than Reason; it is a procedure of 'criticism' (dialectic) rather than a process, and if it may be said to exist anywhere it is in the characters, the adventures, the works, and the relations of human beings. In respect of being an exhibition of *der Geist* each man is self-moved by his own self-understanding and what he is generically (*Geist*) is the specification of his individuality. He is *in* himself what he is *for* himself. *Geist* is *Subjekt*, not *Substanz*. Thus, although such human beings may, perhaps, be said to have a common engagement which may be recognized as participation in the continuous self-enactment of *der wirkende Geist* (an adventure, not a teleological process), they have no common substantive purpose; they are an irreducible plurality of *Subjekte*. And secondly, such persons can be related to one another only in terms of learned and understood conditions of association; to be related causally or to be understood as the com-

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ponents of an organic or other process or whole would be a denial of *das Subjektive* which is the inherent quality of *Geist*.

We are not now concerned with Hegel's investigation of the expressions of *Geist* in works of art, in religious belief, or in philosophical reflection. Our business is what he has to say about such human beings when they are recognized to be in a certain conditional situation (namely, when the scene of their adventures is a 'natural' world), or alternatively when they are themselves recognized in terms of the corresponding conditional engagements of getting to know how the 'natural' world works and making use of its resources for the satisfaction of wants. A 'natural' world is composed of things which are what they are and not what they understand themselves to be because they are devoid of self-understanding.

We may put on one side the cognitive engagement; the focus of Hegel's attention here is *der Wille*. Willing is an engagement of reflective intelligence; on this account, and on no other, it is a self-determined or so-called 'subjective' engagement. It is imagining the not-self (the 'natural' world) to be other than it is and resolving to change it from what it is to what it is imagined to be.

The Subject in willing, then, chooses and performs a specific action which not only transforms a mere thing into an Object but also relates the Subject to it as *his* Object and thus he expresses or 'objectifies' himself in it. In Willing and acting he ceases to be a mere Subject and becomes an 'I and mine', a finite person. The conditions which specify the relation of Subject to thing are, of course, solely concerned with his capacity to transform it into an Object: whatever he can do in this respect he may do, and what he does is to disclose and enact himself. In such doing he is said to be exercising the unconditional 'right' of *Geist* over Nature (not-*Geist*). But, properly speaking, since in this activity he cannot do 'wrong', neither can he do or have 'right'.

But his action is performed in a world not only composed of things but inhabited by other Subjects. And every such action is not only a 'doing' but also an implicit or explicit plea for the recognition by others of what is done. It is a relationship between Subject and Subject and not merely between Subject and thing: a transaction between Subjects. The condition of an 'I and mine' (finite personality) is the acknowledgement, 'You and yours'. And having established this, Hegel is concerned with exploring, not the

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connection between Subject and thing, but the relations of persons and with understanding these relations in terms of their conditions.

Relations between assignable persons, even where they are in respect of Objects, are not in terms of the Objects themselves but of understood, mutually recognized, perhaps deliberately agreed, conditions or practices. 'I and mine' is, on any occasion, the product of rules of recognition. And where there is understanding there may be not only misunderstanding, carelessness, mistake, etc., but also circumstantial failure to observe the terms of the relationship and dispute about whether or not they have been observed. And further, there may be deception, misrepresentation, subterfuge, pretence, fraud, etc. in conducting the transaction. In short, transactions may not only 'go wrong' (an action may fail to achieve its imagined Object) but may 'be wrong'. And where there is 'wrong' there may be substantial injury.

'Wrong', here, is failure (of various kinds) of one or more persons related in a transaction to subscribe to its purported formal conditions, and its antithesis is a 'right' identified merely as faithful observance of these conditions. But no such transaction is isolated; it postulates relationship with persons other than the transacting parties whom it may injure. And the conditions of a transaction are not merely considerations which may be arbitrarily agreed between the parties immediately concerned, they postulate considerations (norms) in terms of which they themselves may be recognized to be 'right' or 'wrong'. In short, the exercise of *der Wille* in postulating the possibility of a local 'wrong' postulates a 'right' which is not merely the antithesis of this local 'wrong' but is composed of considerations not concerned with Objects willed but with the exercise of *der Wille* itself.

These considerations of right conduct Hegel calls *das Recht*, and to be associated in these terms (the common recognition of *das Recht*) is to enjoy a *sittlich* relationship. But although *das Recht* is a necessary postulate of *der Wille*, its contents (prescribed conditions of conduct) are the contingent products of the achieved self-understanding of historic finite intelligences. They may be illustrations of the principle that persons ought always to be treated as persons (*Subjekte*), and never as mere things, but they cannot be deduced from any such principle. They have, however, certain necessary characteristics.

Human conduct, then, is not merely Subjects transforming

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things into Objects in actions each of which is an adventure to procure a wished-for particular satisfaction and doing this in relation to one another, it is an engagement in which Subjects continuously create and recreate themselves as the finite persons they wish to be: *der Wille* is its own *Objekt*. This is the comprehensive business of a human life and in it a person appears in his true character as an independent exhibition of *der wirkende Geist*, active intelligence. And it is a necessary characteristic of the conditions of conduct which constitute *das Recht* that, however they may qualify this engagement, they do not deny or compromise it. Conditions which deprived Subjects of their self-management in self-enactment would merely destroy the activity they purported to qualify. This principle, however, has been made to yield conclusions it cannot sustain. The claim that an agent should not have the unintended consequences of his action imputed to him as a fault is an unavoidably indeterminate, but a perhaps not unreasonable, assertion of the necessary integrity of Subjects, their intrinsic 'freedom' without which there can be neither right nor wrong. But the claims that the conditions of *das Recht* are themselves fully satisfied in the 'goodwill' or the benevolence of the agent, or in the 'sincerity' or conscientiousness of his engagement in self-enactment, or that the 'authenticity' of his conduct absolves it from the imputation of fault, are ill formulated. So far from identifying *das Recht*, they merely deny it. They are, however, exaggerated rather than merely false. The 'authenticity' of conduct cannot be a sufficient identification of the conditions which constitute *das Recht*, but it stands for a principle of the highest importance; namely, that the only conditions of conduct which do not compromise the inherent integrity of a Subject are those which reach him in his understanding of them, which he is free to subscribe to or not, and which can be subscribed to only in an intelligent act of Will. The necessary characteristic of *das Recht* is not that the Subject must himself have chosen or approved what it requires him to subscribe to, but that it comes to him as a product of reflective intelligence and exhibiting its title to recognition, and that it enjoins not a substantive action but the acknowledgement of a condition which can be satisfied only in a self-chosen action. Whatever *das Recht* may be, it cannot be a law of 'Nature' or of God and it cannot be merely a command to perform a specified action.

One of the more notable examples of association in terms of *das*

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Recht is that in which persons are related to one another in continuous transactions to procure the satisfaction of their most ordinary wants: an 'economy'. This is a *sittlich* mode of association. It is persons seeking the satisfaction of their multifarious, different, ever-changing individual wants and associated in terms of a manifold of practices each composed of rules or rule-like prescriptions purporting to comprise convenient procedures for conducting the transactions entailed. These practices are the arts of agency where agency is concerned with extracting satisfactions from the natural resources of the world. *Das Recht* here is a manifold of conditions instrumental to the satisfaction of wants, whatever they may be.

Hegel had profound misgivings about the manner in which this engagement to satisfy wants was being conducted in modern Europe, but this is not the consideration he is concerned with here. The consideration here is that, whatever its current outcome may be in terms of poverty and wealth, it is a conditional, not an autonomous, mode of association. It postulates another mode of association in which *das Recht* is not composed of contrivances for satisfying wants but of considerations to be subscribed to in choosing wants to satisfy and in performing actions designed to satisfy them, and in which the associates are not merely instruments of one another's satisfactions but *vollendeten sittlichen Willen*. This mode of association, which is 'moral' association and is not concerned either to promote or to hinder the satisfaction of contingent wants, he calls *der Staat*.

Das Recht here (the terms of this mode of association) is a system of known, positive, self-authenticating, non-instrumental rules of law (*Gesetze*) enacted by human beings according to a procedure authorized in the system of law; capable of being considered in terms of their desirability and deliberately altered; related to the contingent conduct of persons within their jurisdiction in a judicial procedure which is further empowered to penalize inadequate subscription to the conditions they prescribe; and enforced in administrative procedures similarly authorized. To be associated in terms of *das Gesetz* is to be related in terms of conditions which can be observed only in being understood, which can be subscribed to only in self-chosen actions and cannot themselves prescribe substantive conduct; which not only allow 'free' agency but postulate 'free' agents as their Subjects. Acknowledgement of their authority does not entail approval of what they prescribe;

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they can demand nothing which might compromise the authenticity of the conduct they govern; they neither enjoin nor forbid any other mode of association.

In the *Philosophie des Rechts*, then, Hegel was concerned to characterize the ideal mode of association postulated in persons understood in the conditional terms of *der Wille*. He concluded that it is a relationship in terms of *das Gesetz* and (perhaps injudiciously) he called such association *der Staat*. In the course of the argument he contended that the actual *Gesetze* governing the conduct of any historic set of persons thus related to one another could not be deduced from the character of *das Gesetz* itself. 'Legislating' in these circumstances is necessarily a deliberative engagement reflecting the contingent moral self-understanding of the persons concerned.

His further contention that this mode of association was at least intimated in the so-called states of modern Europe is a legitimate extension of his argument, but it has nothing to do with the often far-fetched connections he purports to establish between it and certain of the legal and governmental institutions of modern Europe. In this contention he is drawing attention to two important contingent considerations. First, he is admitting that it would be difficult if not impossible for speculative thought merely to deduce the mode of association in which *das Recht* is *das Gesetz* from the characters of persons understood in terms of *der Wille* unless there existed in the world some actual intimation of it. And he confesses that he found this intimation, in different degrees of legibility, in the so-called 'political' associations of European peoples: in the ancient Greek *polis*, in the medieval realm, and particularly in modern European states. But, of course, no modern European state could be *identified* as an unambiguous example of the idea *Staat*. The second consideration concerns what he thought of as the 'history' of *der wirkende Geist*. *Der Geist* is a philosophical idea and so is the conditional mode of *der Geist* which he calls *der Wille*, but the self-recognition of persons in terms of *der Wille* is a historic achievement. That is to say, *der subjektive Geist* is not only a philosophical idea but may also be a contingent human disposition. He thought that there was not much evidence of this disposition among the ancient Greeks, but he believed it to be an endowment of self-understanding connected with Christianity and to be notably displayed in the self-understanding of modern

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peoples. Thus, his belief that the states of modern Europe were on their way to acquiring the character of *der Staat* was based upon the belief that the human self-recognition implicit in this mode of association was an already recognizable (though yet incomplete) historic achievement.

Briefly, then, in this continuous strand of modern European thought a modern European state is understood in terms of that mode of association which I have elsewhere called civil association. The persons associated are not joined in the pursuit of a common substantive purpose or in seeking the satisfaction of their individual wants. *Cives* and subjects are recognized and recognize themselves to be related in respect of their acknowledgement of the authority of a system of *lex* composed of conditions to be subscribed to in self-chosen conduct, conditions which are indifferent to the satisfactions sought in the actions and utterances they qualify. This system of *lex* includes offices and procedures in which it may be deliberately changed, extended, or contracted, in which its meaning in contingent situations may be authoritatively declared, and in which these declarations are administered and enforced. The acknowledgement of authority which constitutes this association does not invoke the approval of the conditions it prescribes, and it is inconceivable in any modern European state that all the associates will approve of them all; but neither does it exclude the consideration of these conditions from the point of view of their desirability. Rules eligible to be deliberately altered are rules eligible to be approved or disapproved. Thinking and speaking about *lex* in respect of the desirability of what it prescribes (that is, 'politics'), like every other activity of *cives*, may be subject to civil conditions, but in civil association the authority of *lex* cannot either proscribe or permit it. *Cives* may or may not have some part, direct or indirect, in the authoritative engagement of making and amending *lex*, but this is a subordinate consideration which has no bearing whatever upon the authority of *lex* and the obligation to acknowledge its authority. To approve or to have expressly approved the conditions prescribed in *lex* and to disapprove or to have expressly disapproved are alike irrelevant to their authority.

8. We now have to consider the fortunes of the character of a modern European state understood as a corporate association, of

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the office of its government as the direction (and perhaps the imposition) of a common substantive purpose or system of substantive purposes upon the association, of 'law' as the rule-book of corporate association and therefore as rules related to the pursuit of the common purpose concerned, and of associates as integral members of an association devoted to a common purpose, understood and understanding themselves as comrades in an undertaking. We are concerned now with the notion of a state in which there are managers, not rulers; role-performers related to a common purpose, not *cives* or subjects; instrumental rules, not *lex*. And I shall put on one side the fundamental discrepancy between this and a state recognized as non-optional association.

This understanding of a state in the terms of *universitas* (like that in terms of *societas*) has displayed itself in modern times at various levels of reflection and with different degrees of conviction, confidence, hesitation, or compromise. It may sometimes be detected in the designs of rulers and in the hopes or the fears of subjects. It has been cogently argued and it has been made the subject of prophetic announcements. In the belief that all human association must be in terms of purpose (or what is called a 'community of wills') it has been recognized as the necessary character of a state; and in the belief that it is in the 'best' mode of association it has become the object of aspiration and endeavour. This understanding of a state has been explored in terms of its characteristics, and some small attempt has been made to theorize it in terms of its postulates. Different common purposes have been attributed to a state, and actual states have been identified in terms of distinctive purposes. These purposes have been clearly or somewhat vaguely imagined, precisely or somewhat roughly specified. They have been recognized as substantive conditions of things to be achieved and enjoyed in a near or a distant future, and they have been thought of as an enduring common interest to be continuously explored and promoted. In the five centuries of modern European history none of these imagined purposes, once it has emerged upon the intellectual scene, has altogether disappeared from view, and they have been invoked and recommended in what has been to a large extent a common imagery and rhetoric. But they have succeeded one another in the attention they have evoked and they have become more or less fashionable; and I propose to make this succession of imagined or groped-after

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purposes the thread upon which to string my brief account of the fortunes of this understanding of a modern European state.

But before I begin there is an aspect of the modern European scene whose relationship to this understanding of a state is oblique and from which it must be distinguished. The propensity of human beings not merely to associate with one another in terms of common substantive beliefs but to compose themselves into associations concerned with the pursuit of chosen common purposes or with the enjoyment of a chosen way of living has, I suppose, asserted itself wherever they have released themselves from a merely tribal existence which absorbs nearly all associative urges. Such communities appeared in ancient Greece, they proliferated in the later Roman Empire, and they have remained an extensive feature of European life. They are composed of persons who are joined in recognizing among themselves rules, conventions, practices, etc., somewhat different from (but not necessarily conflicting with) those to which they are ordinarily expected or required to subscribe.

These practices may be more or they may be less strict, but they are regarded by devotees as the lineaments of a substantive way of living, chosen because it is superior, perhaps even 'perfect', or because it is thought to be more exactly agreeable to what is understood to be the human condition, or because it is dedicated to the performance of an office to which not all are called. Communities of this sort represent varying degrees of chosen detachment or retreat from 'the world' and its concerns or participation in these concerns limited by special considerations. Their histories may be brief or extended, they may be disrupted by dissension or disillusion, or depleted by defection, and they may suffer modification, for their essential character is to be communities of persons who have chosen or who have heard a call to live a somewhat unusual life and who may subsequently revoke this choice. Thus, the fraternity that gathered in the garden of Epicurus, the communities of early Christians joined in charity and in the expectation of a momentous event, a monastic order, a brotherhood of *illuminati*, the Moravian communities inspired and financed by Count Zinzendorf in eighteenth-century England, settlements of simple-lifers disenchanted with the squalor of urban existence, kibbutzim, Abodes of Love, Children of Light, fraternities joined in millenarian expectation, nudist colonies, or even persons associated in

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the enjoyment of a highly integrated communal life for its own sake; monks for the cowl. Such communities have had no strong disposition to proselytize, they usually believe themselves to be the guardians of important verities, but they are more ready to expel backsliders than to admit associates of doubtful faith.

An empire, a realm, or a state which is in some significant degree a civil association will have no more difficulty in accommodating such communities than it has in allowing room for individuals of eccentric persuasions. It has no purpose of its own to defend against such community purposes, their concerns do not seriously conflict with the conditions of a *respublica*, and it may even afford them some latitude, gracefully exempting them, perhaps, from civil obligations their members may be conscientiously reluctant to perform, such as jury service. All this is well within the character of a state understood in the terms of *societas*. But a state understood as itself a corporate association can have no place for them. If such a private community were to devote itself to a purpose eccentric to that of such a state it will properly be considered even more dangerously divisive than individual defection; and if its purpose were to coincide with that of such a state, to pursue it thus in a private adventure will be regarded as a usurpation of the managerial office of the government. Sixteenth-century Geneva was no place for either an Abode of Love or even for a community devoted to glorifying God in its own manner. This feature of the modern European scene, then, lies to one side of our concern with the understanding of a state in the terms of purposive association; and we are concerned with the fortunes of such adventures in community life only when they have purported to be identifications of the character of a modern European state or to be designs for imposing upon a state some idiom of corporate association. But they are also significant in having provided most of the tropes of the rhetoric invoked in this understanding of a state and of the office of its government.

Modern European states, as they emerged from the realms, principalities, and lordships of medieval Europe, were not devoid of features to suggest the appropriateness of the analogy of *universitas*; if there was much that pointed elsewhere, there was something to beckon civil understanding and imagination in this direction, and there was more in the offing. And before exploring

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the fortunes of this reading of their character I shall notice some general contingent circumstances of modern European history which may be recognized to have enhanced its plausibility. These circumstances did not, of course, cause states to take on the character of enterprise associations, nor did they push them decisively in this direction; they merely nourished this reading of their character and provided rulers, if they were so disposed, with opportunities to move in this direction or reduced the hindrances which stood in the way of their doing so.

The first of these circumstances was the creation and, over the centuries, the tireless extension and elaboration of a central apparatus of ruling. This apparatus is totally indifferent to the constitution of a government (that is, to the terms of its authorization to rule).[1] Nor is it related to the so-called 'sovereignty' of states: 'sovereign' authority has nothing to do with competence and least of all with omnicompetence. The apparatus of ruling relates to the character of a state as a mode of association and to beliefs about the proper office or engagements of government.

An apparatus of this sort became discernible when from the indiscriminate judicial and adminstrative engagement of medieval rule there emerged an administrative engagement distinguished not on account of its release from judicial control but because its procedures were not those of a court of law and its agents were not themselves judicial officers: constables, comptrollers, surveyors, prefects, commissioners, proctors, wardens, superintendents, inspectors, overseers, collectors of information, and officials of all kinds, together with their assistants, their Bureaux, Boards, Commissions, Committees, Conferences, etc., and the regulations they administer and enforce. Such agents and agencies were not, of course, invented *de novo* by the rulers of modern European states, and they were not devised in response to some new-found belief that the office of ruler was that of the management of a corporate enterprise; although where scholars, schoolmasters, priests, or doctors have had imposed upon them the status of officials it may be suspected that some such project was afoot.

This specifically administrative apparatus was devised to supply an instrument of rule where, in the engagement of ruling, some

[1] The character of this apparatus is grossly misidentified in the bastard expression 'bureaucracy', an expression which darkens understanding by misinterpreting an apparatus of ruling as the terms in which a government may be authorized to rule.

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substantive satisfaction was sought, such as the collection of authorized revenue or the suppression of local disorder. Its agents were tax-gatherers, excisemen, coast-guards, police, soldiers, etc. And even where it acquired extensive proportions, as in eighteenth-century Paris with its military garrisons, its twenty specialized police forces, its inspectors of this and that, its watchmen, its endlessly inquisitive agents and curious *concierges*, its registers of visitors, street-traders and professional vagabonds, its passports and identification papers, etc., etc., it represented a disposition to regard all conduct in terms of its threat to public order rather than any design to 'manage the lives of the people'. Nevertheless, the managerial office which belongs to the direction of an enterprise would be impossible to sustain without such an administrative apparatus, and its appearance as a common feature of modern European states may be supposed to have beckoned imagination towards an understanding of them in terms of enterprise association and to have made less fanciful a determination to impose this character upon them. And certainly, in modern times, every prospectus for a state as association in pursuit of a common purpose has recognized the importance of such an apparatus: Utopia has no lawyers but it bristles with inspectors and overseers.

The second circumstance which nourished the notion that a state was, or could be, or should be corporate association was the unpurged relic of 'lordship' hidden in the office of modern monarchs and which the successors to kings inherited and have shown no inclination to relinquish. Lordship is concerned with the ownership (or the beneficial ownership) of an estate, with the exploitation of its resources and with the lives of the agents of exploitation. And in so far as a modern European state, in virtue of this relic of lordship, could be recognized as itself a domain, it was eligible to be understood as an enterprise of a certain sort, its territory as an 'estate', its laws as rules instrumental to the success of the enterprise, the office of its government as estate-management, and 'subjects' as role-performers in an undertaking. The unqualified attribution of this character to a state would, of course, entail the complete absorption of the regal by the lordly engagement of its government, and this was scarcely plausible in respect of any of the states which emerged from the realms of medieval Europe. And what may be said to have nurtured the disposition to consider the character of a state and the office of its government in

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these terms was the obscurity of the distinction between the two engagements (ruling a realm and managing an estate) rather than any compelling belief that a state might properly be understood as an estate.

It is true that kings in the dawn of modern Europe had become rulers with notable lordly features. They were often the largest single landowners, they enjoyed extensive lordly rights over the property of their subjects, they had direct or indirect control of foreign trade, and they disposed of trading and industrial licences and monopolies. And it is true also that they had considerably increased their estates by the sequestration of ecclesiastical property and that they claimed an over-lordship which might be invoked in emergency. But none of this could do more than suggest possibilities to a lively imagination such as that of Francis Bacon. Nor was there any detectable design to increase the ingredient of managerial lordship in the office of ruler;[1] indeed, Henry VIII and other rulers sold portions of their newly acquired estates in order to finance regal adventures or gave them away as endowments to schools and universities. And the traditional obligation of the King of France in respect of the royal domain was not to manage it but to refrain from alienating it. These resources were recognized, rather, as the sinews of civil rule. And where there was design, as in the dreams of Sir John Fortescue and the projects of Thomas Cromwell, the intention was not to turn the state into an estate and ruling into estate-management but to provide the Crown with an endowment sufficient to make the taxation of subjects unnecessary. In short, the survival of this ingredient of lordship in the office of ruler did not and could not itself evoke the understanding of a state as an enterprise, but it was the soil in which such an understanding could germinate, and later did so.[2]

But, besides these, there were other states which set out on the other foot, and the circumstances of their emergence pointed much more directly to the understanding of a state as a landed estate and to the office of its government as a managerial engagement. These

[1] The expression 'the Manor of England' and the recognition of the King as its 'lord' was, in the sixteenth century, a piece of hyperbole. In the mouth of Beatrice Webb it became a forward-looking design (expressed somewhat quaintly) for the character of the state which was to come.

[2] It is difficult to know what to make of St. German's opinion that Parlement had unconditional authority to redistribute all temporal things between the subjects of the realm. *Division between Spirituality and Temporality* (1532).

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were the states (mostly but not exclusively in the Empire) which, unlike the states which sprang from medieval realms, emerged from what were in fact landed estates, whose rulers graduated from being landowners or fief-holders and in whom the character of landlord only slowly receded before that of ruler. And these circumstances were capable of nurturing the understanding of a state in terms of an estate because, although some of these states never entirely lost their characters as landed estates[1] and indeed combined this character with other lordly characteristics, they were nevertheless recognizable as modern European states. They acquired some of the features of civil association, a law and a judiciary as well as an apparatus of ruling, and the authority of their 'sovereign' rulers was not attributed to their ownership.[2] Even here there was inadvertence rather than design, a left-over adventure of management rather than a determination to remain a lord. But the contribution of this contingent circumstance, in the emergence of modern European states, to the notion of government as the management of an enterprise is not insignificant. It was among these states that it most easily found a home.

And there was another circumstance which disposed, or tempted, civil imagination to regard the office of government as the exercise of seigneurial management; namely, the circumstance that in a not inconsiderable area this is what it manifestly was doing. The inspiration of colonial adventure was various, and the resulting plantations, settlements, etc., were not uniform in character, but everywhere they constituted an extension of the lordship of the rulers under whose protection or licence they were established; the settlers were never unqualified 'subjects' of their rulers. The important point is not that many of these settlements were themselves corporate undertakings, communities of persons modelled upon the constitutions of churches or religious sects (like the Pilgrim Fathers and other New England settlers), or upon the articles of commercial enterprises, or were military garrisons, or that, although they notionally carried with them a law (the English Common law, the *coutume de Paris*, Roman–Dutch or Spanish law),

[1] The ruler of Ansbach-Baireuth sold his principality and its inhabitants to Prussia for cash, as if it had been a farm he had got tired of owning and managing.

[2] These rulers were unlike such non-European characters as the so-called Despot of Morea whose authority did derive from his ownership and who was therefore a 'despot' properly speaking.

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they were not unqualified extensions of the civil associations whence they sprang. What is important for us is that the notionally uninhabited lands of the New World were understood to belong, by right of conquest or occupation, to the rulers of the states whence the settlers came. They were extensions of a royal domain. And the status of the settlers as 'subjects' of a king was qualified by their being also his agents, or tenants, or related to him as holders of commissions, concessions, licences, etc. for which they had often paid, and often with obligations to supply their 'lord' with specified goods or service.

This was the character of the Hispanic settlements in South and Central America and of the French in North America. And the so-called first British Empire was composed of settlers whose title to their land was that of tenants in 'free or common socage' of the royal manor of East Greenwich; they were agents of an enterprise. And in India in the seventeenth century, where the tenancies leased were not in land but were rights to engage in trade and later to conduct courts of law (on the analogy of counties palatine), the 'government' dispensed by the East India Company was that of traders in the interests of their enterprise: 'a state (as Burke was to say later) disguised as a merchant, a great public office in the disguise of a counting house'. From 1670 until 1869 (when a deed of surrender was signed) the Hudson Bay Company enjoyed a licence which constituted it the legislative, judicial, and executive authority in Prince Rupert's Land, and it exercised (and was expected to exercise) this authority in the interests of the trading enterprise. In later times, and particularly in relation to Africa and the South Pacific, so-called colonial territories and their governments were often of a different character; they were not, for the most part, licensed adventures in search of substantive satisfactions but passages in the late nineteenth-century struggle for prestige in Europe which provided a temporary diffusion of European antagonisms. But the notable exception to this, which harked back to the conventions of the sixteenth century, was the Belgian Congo which until 1908 was a private estate, managed by the agents of a *grand seigneur*, the King of the Belgians, in which (in the words of Burke) 'the same power was trader, the same power was lord'.

Of course, nobody mistook the early settlements and plantations themselves for states; nor could they be mistaken for mere

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extensions of the territorial boundaries of states. They were enterprises, promoted directly or indirectly by the rulers of states, in which government and management were indistinguishable engagements. And the consequence of this colonial experience was to familiarize modern Europe with states which were, in some significant respect, enterprises and with governments which were managers of enterprises.[1]

These are not negligible considerations in relation to the fortunes of the understanding of a state as association in terms of a substantive purpose and of the office of government as the management of an enterprise, but there is another circumstance of much greater importance in this respect; namely, war. The states of modern Europe emerged not only enticed by the invitations of the New World but under the shadow of the last (?) great threat of extra-European invasion, that of the Turks; and the five centuries of modern times have been a period of continuous warfare between themselves, much of it on battlefields outside Europe. The campaigns, no doubt, have been intermittent, although the intervals between them have been brief; but to be engaged in maintaining the capacity to attack or to resist, or to be preparing to make war or to repel an enemy, or to be at war, or to be counteracting the consequences of the belligerence of others, or to be repairing the ravages of war has been the normal condition of every European state. The purposes pursued in the wars of modern times have been various and their outcomes indurable, but these are not our concern. What is important for us is the contingent relation of this circumstance of continuous warfare to the character of a modern European state as an association of human beings and to that of the office of its government.

Briefly it may be said that a modern European state at war, whatever the strength of its disposition to retain its character as

[1] So far as England was concerned this experience was fully enjoyed in relation to Ireland in the seventeenth century. Until modern times the King of England was 'Lord' of Ireland, Strafford's activities in Ulster were as much those of an estate agent as those of a ruler, Cromwell's were more sectarian than civil, and there was nothing to stand in the way of Sir William Petty (otherwise a good Hobbesian) thinking of Ireland as an 'underdeveloped' estate whose inhabitants were to be pacified and set to work and whose natural resources were to be exploited under the direction of the agents of its 'lord'. The Survey of the resources of the country which he proposed was concerned with 'development' and was therefore unlike the Doomsday Survey or the *Valor Ecclesiasticus* of 1535.

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civil association, is indisputably turned in the direction of association in terms of a substantive purpose. In war itself, the latent or not so latent ingredient of managerial lordship in the office of the government of a modern state comes decisively to the surface and is magnified, and what had hitherto been no more than contrivances for collecting revenue, for safeguarding the sources of revenue, or for maintaining civil order become devices for controlling the use of resources and for removing substantive choice from the conduct of subjects. In war the status of 'subject' recedes before that of agent and role-performer in an enterprise, and the word 'public' loses its meaning as considerations of civility to be subscribed to by *cives* in pursuing their chosen satisfactions and comes to stand for the now compelling corporate purpose of the association. And what is plenary in a condition of actual war is merely somewhat diminished in the intervals between wars. War in a modern European state is the enemy of civil association; belligerence is alien to civil association.[1] Secondly, war and military preparation imposes this character upon a state more or less completely, not in proportion to its destructiveness, but in proportion to the magnitude of the claims it makes upon the attention, the energies, and the resources of subjects; and the wars of modern times have been progressively more demanding in this respect. Hostilities which in the fourteenth century destroyed everything that lay in their path but were otherwise experienced only in the demands of tax-collectors and left to impoverished subjects the management of their own affairs, by the twentieth century have become occasions for the almost total mobilization, management, and direction of their attention, their energies and their resources in pursuit of a single purpose. Thirdly, a modern European state which has in any significant degree surrendered its character as civil association in favour of some non-military idiom of enterprise association and the office of whose government has become a notably managerial engagement, or a state in which the character of civil association has never decisively emerged, is (in the conditions of modern Europe) inherently belligerent; its already purposeful disposition

[1] Kant and others conjectured that a Europe composed of states with republican constitutions would be a Europe at peace. This absurdity is often excused on the ground that it is a plausible (although naïve) identification of war with so-called dynastic war, but it is in fact the muddle from which Montesquieu did his best to rescue us, the confusion of a constitution of government (republican) with a mode of association (civil relationship).

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invites that of a state at war. And finally, what is learned in war is remembered when hostilities subside. The model of a state understood as association in terms of a substantive purpose and of its apparatus of ruling has always been sought and found in the image and organization of a state bent upon conquest or of a city besieged: the common vocabulary of purposive 'rule' is military. Thus, although it may be difficult to find any modern European state recognizably the counterpart of Sparta in antiquity (that is, a state whose reputed purpose is itself war), the condition of almost continuous warfare in modern times has familiarized Europe with the spectacle of states significantly, if intermittently, transformed into enterprise associations; and this has been the chief nourishment of the belief that a state is properly to be understood in these terms.

The governments of modern European states, then, neither lacked invitations to recognize their office as that of a managerial and a promotional engagement nor resources to respond, some being better equipped than others in this respect. But there is another contingency, of a somewhat different kind, which nourished the recognition of a state in terms of the analogy of *universitas*; it concerns the character of the associates and it may even be said to be the human postulate of a state thus understood.

I have already considered in some detail the disposition of the associate postulated in a state understood in the terms of *societas* and I have said something to display this as a historic European character notable in modern times: the disposition to cultivate the 'freedom' inherent in agency, to recognize its exercise as the chief ingredient of human dignity, to enjoy it at almost any cost, and to concede virtue to personal autonomy acquired in self-understanding: the disposition characterized by de Tocqueville and theorized by Hegel. And if this had been the only character who walked the world in which the states of modern Europe emerged, then it may be conjectured that, in spite of other circumstances, they might have become unequivocal civil associations. But there was another *persona* abroad whose disposition was such that he could be accommodated only in the sort of association which the analogy of *universitas* suggested for the character of a state; namely, a compulsory enterprise association in which the office of government was not to rule subjects but to make substantive choices for those unable or indisposed to make them for themselves.

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In a world being transformed by the aspirations and activities of those who embraced with enthusiasm the opportunities of self-disclosure and self-enactment which emerged from the desuetude of a communally organized life there were some (perhaps many) who found themselves invited to make choices for themselves in matters of belief, language, conduct, occupation, relationships and engagements of all sorts, but who could not respond. The old certainties of belief, of understanding, of occupation, and of status were being dissolved not only for those who had some confidence in their ability to inhabit a world composed of autonomous individuals (or who had some determination to do so) but also for those who by circumstances or temperament had no such confidence or determination. The counterpart of the agricultural entrepreneur, the commercial adventurer, and the artisan confident in his skill was the displaced labourer; the counterpart of the self-directed man and the *libertin spirituel* was the dispossessed believer. The familiar warmth of communal relationships was being dissipated for all alike, and an emancipation which excited some depressed and discomforted others. In short, the circumstances of early modern Europe bred, not a single character, but two obliquely opposed characters, that of the individual and that of the individual *manqué*; and in one idiom or another they have been with us ever since those times. Our concern now is with the latter of these characters.

This is not the place to speculate upon what combination of actual loss, debility, ignorance, timidity, poverty, loneliness, displacement, persecution, or misfortune evoked persons predominantly of this disposition either in the early years or in later times: the helpless victim of an enclosure, the English Calvinist who sought refuge in Geneva where he would meet only others of his kind, the conditions of modern urban life. Nor is it possible to identify in other terms the persons who in the course of modern European history have been bearers of this character. They are not the poor (although wealth affords some superficial protection); they are not the peasantry of Europe who (until recently) mostly escaped it; nor are they exactly those whom others have identified as the 'proletariat' because the ingredient of spiritual indigence is not less important in this character than the absence of possessions; and the true vagabond does not belong here. And if they were to be identified (as is often the case) as 'the masses', then it must be

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understood that what is being referred to is not their numbers but their incapacity to sustain an individual life and their longing for the shelter of a community. Their numbers have fluctuated greatly in modern times although they are now proportionately greater than ever before, mainly because of the policies of governments. The character we are concerned with is that of those who, for whatever reason, are disposed to prefer substantive satisfactions to the adventure and the risk of self-enactment. And I can do no more here than try to recognize this disposition as it emerged in modern Europe and to notice its impact upon the character of a state and of the office of its government.

The relatively weak are apt to seek safety in the protection of the relatively more powerful and are usually gratified if they can find an adequate and not over-exacting patron. Thus, in earlier times, the weak 'commended' themselves to the protection of a lord who, in accepting them as clients, became party to a bargain in which he enjoyed the services of retainers and they the protection of a patron. But the character we are concerned with in early modern Europe was not merely weak or insecure; he had suffered loss, he needed to make good this loss, and he was aware of being unable to do so on his own account. The conditions of civil association as enunciated, for example, by the King's Bench Justice, Fitzherbert, in 1570, 'that there should be no man bounde but to God, to his King and to the law', did nothing to relieve his distress which could be resolved only in the warmth of a solidarity he was incapable of recreating for himself and in the restoration of the substantive satisfactions he had lost. He had needs rather than wants; he sought a patron rather than a ruler, a lord able to make for him the choices he was unable to make for himself rather than a law to protect him in the adventure of choosing. He invoked not the ingredient of civil rule in the government of a state but its unpurged relic of lordship, and he found some response. The 'godly prince' of the Reformation and his lineal descendant the 'enlightened' ruler of later times may be recognized as inventions for making circumstantially unavoidable choices for those unable to make them for themselves.

The emergence of the individual *manqué*, then, and of what may be called in the broadest sense the problem of 'the poor', invited the government of a modern state to a managerial engagement in respect of the lives of at least some of its subjects in some impor-

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tant respects; and although the response was often reluctant, there was an unavoidable qualification of its character as a ruler of subjects. It called for a command of resources which was gradually reflected in a modification of the idea of taxation, civil law was modified in having to make room for rules for awarding substantive benefits to assignable persons, it promoted administrative at the expense of judicial control, the care taken of those who welcomed it as an answer to need unavoidably spilled over upon those who did not, and, one way or another, it promoted the understanding of a state as something other than a civil association. But there was more to come.

The individual *manqué* had suffered not only substantive loss but also moral defeat. The morality of respect for individuality and of virtuous self-enactment was certainly not without competitors in the world of emerging European states, and it was soon to encounter a resurgent (though somewhat rickety) morality centred upon the pursuit of a so-called 'common good', but it had swept aside both what was valuable and what was not so valuable in the morality of communal ties. And the weight of this moral victory bore heavily upon the individual *manqué*. Already outmanœuvred in the rough field of prudential conduct, he now suffered defeat in his own character. What had been no more than an inability to hold his own in belief and conduct became a radical self-distrust; what had been the discomfort of ill success turned into the misery of guilt. No doubt his character reflected in some measure the common anxiety of one who finds himself saddled with the unsought and inescapable 'freedom' of human agency and is hesitant about being able to respond; but he is a historic and a derivative character, the victim not only of the dissolution of familiar beliefs and relationships but also of another's more lively response to this dissolution. And hidden in his character was a small seed of resentment.

He had feelings rather than thoughts, impulses rather than opinions, inabilities rather than passions. He required to be told what to think, to ask for, and to do, and in the course of time his natural submissiveness prompted the appearance of 'leaders' to perform this service for him. These 'leaders' had no substantive benefits to distribute; they were merely advocates of his cause, they sometimes undertook to organize his life, they had some genuine concern for his predicament, and a few of them treated

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him with the sympathy and respect he deserved. They often confused the situation by formulating his so-called needs in terms of 'rights' to enjoy substantive benefits, and they concealed from him the modification of his status as subject which the satisfaction of these needs by a government would entail, and they never revealed to him 'the folly of being comforted'.

But he fell into the hands of less scrupulous operators. He was unmistakably an instrument to be played upon and the instrument evoked virtuosi, 'leaders' in the modern mode: persons who have themselves just enough individuality to derive some satisfaction from the adventure of making choices but too little to seek it anywhere save in commanding others, persons who can appear as both the image and the master of their followers, whose concern is to exercise power, and who are naturally indisposed to put a term to their activities by urging their followers to cultivate self-reliance or even to be critical of their impulses. They acquainted him with the fact that he was not alone (indeed, they grossly exaggerated his numbers), they impressed upon him his power, and they fastened upon the only shameful ingredient of his character, his resentment of the moral superiority of individuality. It was, nevertheless, an uneasy partnership; even the exiguous individuality of these leaders easily aroused suspicion, and in their greed for power they raised hopes in their followers which they were unable to satisfy. They spoke to their followers in the language of millennial expectation, and the prospect they dangled before him was not that of a loss made good or of substantive benefits enjoyed but the promise of salvation: a world from which all that convicted him of inadequacy had been miraculously removed. From the character of the individual *manqué* they evoked the character of the determined 'anti-individual',[1] one intolerant not only of superiority but of difference, disposed to allow in all others only a replica of himself, and united with his fellows in a revulsion from distinctness. And they urged him to seek this release in a state from which the last vestiges of civil association had been removed, a *solidarité commune* in which there was no distinction of persons and from which no one was to be exempt; a therapeutic corporation devoted to

[1] This was the character observed by Burckhardt and others in the nineteenth century and whose features have been studied in Eric Hoffer's *The True Believer* (1952). The disposition of the anti-individual has also found support in a once-fashionable pseudo-biological view of 'the progress of mankind' in which 'in the long run (on the great average of affairs) individuals count for nothing'.

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remedying the so-called self-alienation with which they had infused their followers.

Medieval realms and principalities, then, were not devoid of features to suggest the appropriateness of the analogy of *universitas*, and in a modern European state these features acquired an additional prominence; the circumstantial conditions of modern European history made the analogy all the more appropriate for understanding its character. And while these states, under the direction of their governments, have trodden this path with varying degrees of consistency and commitment, some inadvertently or merely in response to local and temporary exigencies, and others with determination, but all restrained by an allegiance to the idea of *societas*, speculative writers have explored the possibilities of a variety of idioms of corporate association suggested to them by imaginative attachments or by what were often no more than adventures embarked upon by governments for no better reason than that the power to do so had accrued. And it is these adventures and speculative projects that we must now consider.

9. The earliest and least compromising of the adventures were undertaken by rulers in pursuance of their immediate task of asserting the independence of their states and of getting their authority and that of their office recognized. The aim was to generate a sentiment of solidarity among the often miscellaneous collection of persons and communities which composed their subjects; to endow them with some semblance of substantive unity by imposing upon them a cultural and religious homogeneity, or, in the parlance of later times, to make of them a 'nation'. For some rulers their medieval inheritance presented them with this work half-done, but for others it was a new and exacting engagement.

There were crudities in this enterprise to be attempted in the mere suppression of obtrusive irregularities: the destruction or expulsion of communities with eccentric cultures, the extrusion of populations identified as 'alien' (like the Jews and the Moriscos from the Iberian peninsula), the extirpation of ancient paganisms, of novel antinomian cults, witchcrafts and sorceries, the erection of censorships, the control of entertainments, the suppression of languages and divergences of all kinds, especially those which

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entailed extra-territorial affiliations. But the positive side of the undertaking was a mobilization of teachers and preachers to speak with one official voice. This entailed the appropriation and exercise of an *auctoritas docendi*, thitherto the prerogative of the Papacy and its agents, from which emerged not only the so-called 'national' churches of early modern Europe but also schools and universities emancipated from ecclesiastical control and subject to regalian supervision and management in respect of their studies, their appointments, their discipline, their corporate government, and their property. And what came into view, more or less clearly, were states in each of which *temporalia* and *spiritualia* were assimilated to one another not merely jurisdictionally but substantively, governments seriously concerned with the religious and cultural integration of their subjects and armed with a by no means contemptible apparatus of control. The Moderator of Christendom having been deposed, his place was not left vacant; the rulers of states became the guardians of education and religious belief and practice even where their agents in the undertaking were, for the time being, priests and pastors.

Where the norm of solidarity remained Latin Christianity together with the language and the vernacular culture of that part of a state which constituted the nucleus of his authority, the ruler had to defend it against the intrusive novelties of 'protestant' belief and the cosmopolitan culture of 'humanist' education. And from early in the sixteenth century the rulers of France, Spain, Portugal, Poland, and later Austria were alike devoted to this disciplinary and managerial undertaking. Everywhere the control of the institutions of education, their property, and their curricula of study were removed from the Church and annexed by the kingly authority. Existing schools and universities were inspected, reformed and placed under the direction of overseers; new institutions, exempt from papal control, were founded and endowed, and those beyond the reach of reform were abolished. Censorships were erected and ecclesiastical appointments, long ago subject to regalian 'jurisdiction', were used to inaugurate 'national' churches. And where the chosen task was to recall the subjects of a ruler from apostasy, the engagement was all the more arduous and nowhere achieved without the tireless help of the Jesuit Order. Albrecht V of Bavaria between the years 1563 and 1571 mobilized all his resources in order to re-establish Catholic

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Christianity as the sole religious confession in his dominions, appointing overseers, conducting visitations, erecting censorships, and imposing the test of the Tridentine creed upon all persons in public employment. In France, the so-called Gallican Church triumphed, for a time, over its adversaries, the Sorbonne degenerated into a parochial academy, and the *langue d'oïl* established its supremacy over the *langue d'oc*. In Spain, Castilian culture prevailed and a 'national' church, more securely under regalian control than any other in Christendom, emerged. *Cuius regio illius religio* was the prevailing principle in post-tridentine Catholic Europe no less than elsewhere.

These policies of integration (which were often as comprehensive as circumstances and the available apparatus of management permitted) where adventures in teleocracy. Of course, total success always eluded those who undertook them; localities escaped, institutions which had never owed their independence to ecclesiastical *privilegia* defied control, the *libertin* (secular and religious) was irrepressible. Moreover, the norm of solidarity itself was not immune from change, qualification, or even dissolution. As an indisputable nucleus of cultural integration, Catholicism did not last beyond the end of the seventeenth century except in Spain, Portugal, and Poland; in France it was always qualified by the attraction of Geneva.

Most of the writings which gave expression to this understanding of a state as a cultural and religious *universitas* in the idiom of post-tridentine Catholic Christianity are the work of those who laboured in the cause. Here and there, however, it received a more reflective consideration, usually much in debt to Aquinas. It is to be found in Bossuet's *La politique tirée de l'écriture sainte*, where the office of ruler is recognized as a *ministre de Dieu*, his engagement as that of guardian of a religious and moral *verité*, and a state as *une parfaite solidarité, comme un seul homme*: the language is that of corporate association. But that the range of opportunity afforded by Catholic Christianity was wide is illustrated in the writings of Joseph de Maistre, perhaps the only genuinely theoretical treatment of the idea of a modern European state as a religious corporation in the Catholic idiom. There, a state is understood as an indissoluble corporation in which *temporalia* and *spiritualia* are indistinguishable, whose members are together interminably engaged in paying off a collective debt to God contracted in the

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original sin of individual self-preference and increased by every subsequent unpunished sinful act. The assets of the corporation are the merits of the saints; indeed, it is *la réversabilité des mérites qui explique tout* and which constitutes the corporate character of a state. The ruler (who is both priest and king) is the organizer and manager of this enterprise of moral solvency. In short, a state is a contingent particle of the human race, a *solidarité* of guilt, a *universitas* whose God-imposed purpose is the redemption of a portion of mankind. And de Maistre's contemporary, Louis de Bonald, with less imagination and in a more positivist vein, understood a state to be a corporate solidarity of human beings united by the ties of 'necessary relationships deriving from the nature of things' and by the restraints of common religious beliefs, seeking to deserve a *post mortem* salvation.

In England an official norm of educational and religious solidarity emerged slowly and never established itself conclusively. The long parliament of 1539 abolished both the *auctoritas jurisdictionis* and the *auctoritas docendi* of the Papacy and opened the way to the creation of a Church of England in place of the Church in England, to a protracted struggle between Catholic and Calvinist factions both of which left their mark upon the official ecclesiastical and religious settlement, and to visitations, inspections and reforms in respect of both schools and universities which fell under regalian control. But the Act 'for abolishing diversities of opinion' began to crumble almost as soon as it was enacted and in the early years the educational institutions of England suffered more from destruction than from integration. The colleges of Oxford and Cambridge barely escaped extinction. But even at the height of the storm the belief that England was a civil association—the belief expressed in Sir Thomas Smith's *De Republica Anglorum* and in Hooker's *Laws of Ecclesiastical Polity*—was never seriously shaken. And it was only later that, for a short time, England fell into the hands of men who designed to endow it with the character of a managed cultural and religious *solidarité commune*.

The rulers who, on behalf of their subjects, elected for Lutheranism in the sixteenth century took a more decisive step in the direction of teleocracy. Here the cultural and religious norm was itself to a large extent novel and in choosing it the ruler was displaying his newly acquired authority as the guardian of his subjects' moral and spiritual welfare and at the same time ensuring

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himself against a relapse in which what he had already acquired by the plunder of ecclesiastical property might be lost.

The reformers (and Luther in particular) had preached a message of emancipation from the discipline of the Church and a gospel of release from what was plausibly represented as a religion of law, obedience, and priestly authority. Their converts were taught to enjoy 'the liberty of the Christian man', saved by faith (*fiducia*, not merely *assensus*) alone and absolved from having to work their passage by good deeds and penitential sufferings. The outcome was a vast moral and religious anarchy upon which the Reformers themselves had little disposition to impose a new creed or a new ecclesiastical order. And it fell to the 'godly prince' (like the Emperor Constantine on an earlier occasion) to curtail the seemingly endless theological disputes, to define a 'confession' for his subjects, to create and endow from the spoils of ecclesiastical depredations the 'reformed' church of his state, to insist upon uncompromising uniformity, and thus to place his state under the aegis of the new and powerful God of the reformers. And in so doing he acquired a command over his subjects which no Catholic king ever enjoyed. From the converts of the reformers released from discipline and subject to the pulls of a hundred novel fanaticisms, and from the desire of princes and municipal governments to protect their confiscations and to enhance their independence, there emerged the new territorial 'reformed' churches, each 'a wheel in the great machine of the state': a clergy without priestly authority whose fortunes (now that they had confirmed their defection by marrying) were irrevocably bound up with those of the regime, and their often bewildered congregations tied to the religion of the *regio* they inhabited.

With these ecclesiastical changes there emerged a territorial culture imposed by princely patronage or force upon whatever was already there. Inquisitions and censorships were set up, ancient customs were suppressed, communications with the world outside were restricted, overseers of education appointed, schools and universities reformed and new established (endowed from the proceeds of plunder), appointments controlled and curricula laid down. Since it was in many respects a new culture, it lived under the threat of deviation; it was imparted as an orthodoxy from which no divergence was permitted and it was learned by rote in schools and universities. What emerged, and what succeeded in maintaining

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itself more or less intact in some places for a century and a half, was a state whose character approximated to a *universitas*, the office of whose ruler was to 'command for truth'. This Lutheran culture was, however, insubstantial; it was too indistinct to endow the subjects of a ruler with any strong sentiment of solidarity (except perhaps in Sweden where deviation was a capital offence) and it was liable to collapse under determined attack.

Such, however, was not the case with states where the sentiment of solidarity was linked with Calvinism. For, whereas Lutheran churches were the creatures of rulers and were politico-religious institutions, supported in some places by common taxation, Calvinist states were the creations of Calvinist factions. Here, a state (the prime example was Geneva) was understood to be a beleaguered community 'standing under the discipline of God's word' and dedicated to the revelation of 'God's glory and fame' in the world, whose government was composed of ecclesiastical and civil elders and magistrates with the office of managing the corporate enterprise. The members of the corporation were recognized to be an indistinguishable mixture of the 'elect' (those predestined for salvation) and the 'reprobate', and consequently its rulers were not themselves thought of as agents of salvation; their office was to organize and direct a substantive condition of human circumstance in which the conduct of each of their subjects conformed at all times to the purpose of the enterprise: the glorification of God whose wrath would be visited upon a delinquent community. This single purpose to which all activities whatsoever were to be assimilated, was set out in instrumental rules, regulations, directives, and commands which, appropriately, recognized no distinction between 'public' and 'private' and allowed no divergence from the uniform purity of appearance which constituted the *salus populi*. To rule such a state was to exercise a comprehensive *domestica disciplina* in which nothing was overlooked, even usurping parental authority. And the apparatus of governing included the continuous exercise of supervision, courts of morals, sumptuary regulations, inquisitions, informers, secret agents at home and abroad, censorship of art, literature, and entertainment, curfews, overseers of schools and universities, tests, accusations, warnings, threats, excommunications, penances, suppressions, and expulsions. In short, such a state represented the surrender of civil to

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teleocratic rule in a manner and to a degree only distantly intimated in the largest claims once made for the *respublica Christi*.[1]

Unlike Lutherans, who had no church and no 'confession' but that supplied by a prince, local communities of Calvinists were able to maintain themselves as private corporations in Catholic states and (for example) in New England; but in favourable circumstances a Calvinist faction could impose itself upon a state and establish a teleocratic regime of this character, as in more recent times a faction united by some secular doctrine has imposed by force a comparable regime upon Russia and Poland. This was the case in Scotland, in Holland (where it was connected with emancipation from Spain), in England during the central years of the seventeenth century, and pre-eminently in Geneva after 1541. Like all such regimes where, in modern Europe, they have been imposed upon subjects accustomed to private life, these were recognized (even by subjects used to the severest civil rule) for what they were: the substitution of corporate for civil association. They were endured rather than welcomed; they were corrupt; and while demanding to be 'loved', the integrators were hated in proportion to their success. In some places the success was considerable, although beneath the surface Geneva remained one of the most *libertin* cities of all Europe.

There were, of course, other and more eccentric versions of the belief that a state was to be understood in the terms of a moral and religious corporation and some of these were even represented in short-lived regimes or attempted *coups d'état*, such as the Anabaptist regime in Münster. There was, for example, the belief that a state was a corporation of persons indistinguishable from one another in respect of being joined in the expectation of the reappearance on earth of Christ as King. The rulers of this corporation were self-denominated 'Saints' (persons who in virtue of the Grace bestowed upon them were the *locum tenentes* for the expected 'King') whose office was that of imposing upon 'unregenerate' subjects conduct suitably virtuous for persons whose sole business in life was to be ready for the Event when it should occur and to shame the human race as little as might be on that occasion.

Total success has always eluded those who have pursued this idiom of the understanding of a state in the terms of *universitas*;

[1] Perceptively, John Knox recognized Geneva as a 'school', not an association of adult persons.

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the *libertin* in modern Europe has always been irrepressible and the relics of a civil condition have always been resuscitated to defeat them. Only where it has achieved the proportions it did in sixteenth-century Geneva, in National Socialist Germany and in contemporary Russia may it be said that a state is itself an enterprise whose 'end' is the achievement and maintenance of a religious and cultural homogeneity; and in all such cases this is no more than an item in a more extensive corporate enterprise. But that it should achieve such proportions is well within the character of a modern European state as it emerged from the conditions of medieval life and thought.

I have interpreted this idiom of teleocratic belief in relation to a modern European state as the outcome in modern history of that blending of what may be called, in brief, the authority to rule and the authority to educate which was intimated in an inheritance of practice and idea from the later Middle Ages.[1] But by about the end of the seventeenth century it was being translated into secular terms. 'Virtue' (devotion to the 'common good' of a secular corporation) was taking the place of a 'godly life' or of a *preparatio* for an earthly or a *post mortem* 'salvation' as the purpose ascribed to a state; and the office of government was beginning to be understood in the terms of 'enlightenment' rather than 'sanctity'. But before the outcome of this change is considered we must notice a second idiom of the understanding of a state as a corporate enterprise; namely, that which sprang from the unpurged relic of 'lordship' in the office of ruler. For the idea of 'enlightened' government and the understanding of the character of a state it entailed, which now constitutes the strongest strand of teleocratic belief in modern European thought, is itself a blend of moral and religious and 'lordly' engagements attributed to the office of government.

A corporation is persons associated in respect of the pursuit of a

[1] This reading of the matter owes much to Ranke and such Neurankeaner historians as Lenz who held that the dominant 'theme' of modern European history is the tension between religious and civil association, continuously transformed. And it is proper to notice that Russian history is, in this respect, different from that of western Europe not only because of its very slender tradition of civil association (perhaps to be connected with the absence of the sort of 'feudalism' from which Europe learned it) but also on account of the difference between the Eastern and the Latin Churches.

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common purpose, and it is specified, not in terms of its 'constitution', but by the particular purpose jointly pursued. Consequently, those who were disposed to think of a state in the terms of *universitas* had to assign to it a particular enterprise. They might absolve themselves from having to show who had chosen the enterprise and when it had been chosen, but they could not exempt themselves from having to show that the purpose they attributed to a state was plausible in terms of current beliefs, the conditions of modern Europe and the potentialities of its governments. The manifestly miscellaneous composition and temporary character of states made this difficult; indeed, it imposed a visionary quality upon all such suggestions. But visions are related to circumstances and these, being the creatures of practical imagination, were related to current possibilities and ambitions.

The emergence of states in which *spiritualia* and *temporalia* had been assimilated to one another and had become the care of a single authority pointed in one direction; the unpurged relic of lordship in the office of government pointed in another. It specified the common good in different terms. Lordship is concerned with the management of an estate and the exploitation of its resources. And we have seen that the endemic condition of war and its concomitant of the mobilization of resources for defence or aggression was a circumstance which converted what had been little more than a government concerned to exploit and to extend the sources of its income to an engagement to formulate and pursue an economic policy such as that which later came to be called mercantilism. And we have seen how a concern with colonial plantations invoked and exercised the managerial capacities of the governments of modern European states. But it required the audacious imagination of Francis Bacon to conceive of a state as a corporation aggregate concerned with the exploitation of the resources of an estate and of the office of government as that of estate management, and to provide a reasoned account (within the terms of current belief) of this idiom of teleocracy. And Bacon's argument is worth considering, because although it failed to persuade James I (who wisely affected not to understand it), and although some passages in it fell away, unable to hold the attention of later generations, and although it called for and received amplification in the work of writers concerned with circumstances other than those of sixteenth-century Europe, Bacon is the acknowledged progenitor of that

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understanding of the character of a modern European state in which it is recognized to be, and not merely to have, an 'economy'.

The argument begins in theology, as was scarcely avoidable in the sixteenth century. Indeed, it claims Biblical authority for its thesis and its rhetoric is Calvinist. God has endowed mankind with an absolute right over the resources of the earth to employ them for the satisfaction of its wants. Nothing, in this respect, is forbidden. In the post-lapsarian world the secrets of the earth reveal themselves only to patient inquiry and the exploitation of its resources is an unavoidably laborious undertaking. But the Fall of Man has deprived the race of none of the abilities required to exercise this right: it has curtailed neither its physical nor its rational powers. To win from the natural world its secrets and to exploit its resources is the chief (and perhaps the only) way mankind has of glorifying God; and the more diligently the enterprise is pursued the greater is the glory enjoyed by God. This then is the proper occupation of mankind: the unremitting and intelligent exploitation of the resources of the earth for the satisfaction of human wants. And it is only in respect of its relation to this engagement that any human activity may be recognized to be permissible.

But (the argument continues) hitherto the human race has been deplorably lax in pursuing this enterprise. It has not lived continuously at the frontiers of knowledge seeking ever fresh increments of power to subjugate nature: where God commanded diligence, it has been disgracefully idle. It has failed to exercise to the full that 'right over nature which belongs to it by divine bequest'; it has preferred to fix its attention upon an *ultima beatitudo post mortem* or to indulge itself with dreams of Cockaigne whose magical abundance has made it seem a fairer sight than Paradise itself, and it has allowed the natural world to remain deplorably 'underdeveloped'. Its disposition to remain content with a miserably low standard of 'well-being' is sinful and an insult to God. This indifference to its inheritance and this failure to attend to its proper occupation are, however, almost negligible delinquencies compared with the massive stupidity of mankind. They have never yet properly understood, what should be clear to the meanest intellect, that success in this God-commanded enterprise depends upon the integration of their efforts. God will never be adequately glorified until wasteful effort has been eliminated by placing the exploitation of the resources of the earth under central

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direction. And if human effort were thus organized, knowledge would accrue, power would be continuously generated, 'well-being' would be enjoyed in an ever increasing measure, and God would be magnified instead of being insulted.

A state is to be understood as a circumstantially distinguished territory whose inhabitants, incorporated in the relentless exploitation of its resources, have a common interest in the continuous success of the enterprise. And the government of a state is the custodian of this common interest and the director and manager of the enterprise. Thus, what is sin in relation to God (failure to exploit his gifts to mankind) becomes treason in respect of the corporation (sabotage of its enterprise). The engagement of the 'ruler' of a state, who is Chairman of a Board of Technocrats, is not only to determine the grand strategy of the enterprise and to direct its day-to-day conduct; it is also to preserve its integrity by inhibiting all beliefs and activities which might hinder its pursuit. He will direct research, control agriculture, industry, and trade, regulate prices, determine the balance between investment and consumption, assign their several tasks to the members of the corporation according to their talents, reward diligence, suppress idleness and waste, protect the estate for which he is responsible from the intrusion of over-curious strangers and from the depredations of invaders, enlarge it by colonial plantation, guard the secrets of the corporation and organize industrial espionage in order to take advantage of the achievements of other such corporations. He will align the education of his subjects to the needs of the corporate enterprise, propagate beliefs favourable to it, and suppress those which might hinder it.[1] He will 'settle' religion so that it shall not interfere with the business in hand and exclude extraneous activities, distracting entertainments, holidays which are not preparation for work, music and poetry which does not celebrate the purpose of the corporation.

The *collegium* with which Bacon identifies a modern European state was, however, a somewhat odd enterprise. Superficially, it appears to be like an Owenite Village of Co-operation in which each man knows himself and is known as a member of a corporation, a 'living machine' geared to a comprehensive productive under-

[1] In particular, Bacon thought that the common belief that the 'world' was old and approaching the condition of senile decay ought to be vigorously opposed because it 'quails the hopes and blunts the edge of man's endeavour'.

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taking designed to yield a continuous flow of satisfactions. And, no doubt, it may be expected to supply satisfactions for felt wants and to enlarge the scope of human life by suggesting and satisfying wants thitherto unfelt. But all this, in Bacon's account, is incidental to the design which is neither more nor less than 'to make nature yield what it has never yet yielded'. The Baconian vision is a technologist's dream in which the products of the undertaking are not, in the first place, recognized in terms of their 'usefulness' but are votive offerings at a harvest festival or exhibits in a religious–industrial Exposition where even a mass-production machine is valued not for what it may produce but as a memorable human achievement, a parade of power, an offering to God rather than to mankind. The 'well-being' corporately pursued was recognized as the fulfilment of a 'calling' to conquer the natural world rather than as a satisfaction to be had from the enjoyment of the spoils of conquest. In short, the Baconian vision is still in the religious idiom: *laborare est orare*. But it was a religion incapable of defending itself against the vulgarity soon to be imposed upon it.

It was agreed by Bacon's successors that the proper occupation of mankind is to make itself master of the natural world and to exploit its resources to the utmost. But, ceasing to be recognized as an act of worship, this enterprise came to be understood as one in which human beings sought the satisfaction of their endlessly proliferating wants and identified themselves merely as participants in a productive undertaking. And it was agreed, also, that success would be qualified (or even frustrated) if the undertaking were not centrally organized both in respect of the wants to be satisfied and the manners in which satisfactions were sought: each participant must be assigned a determinate function in the undertaking. And the enterprise itself must be under the management of *illuminati* ('scientists') concerned and equipped to unravel the secrets of the natural world and to direct the exploitation of this information. Thus, the way lay open for the emergence of the understanding of a state as a *civitas cupiditatis*: a corporate productive enterprise, centred upon the exploitation of the material and human resources of an estate and managed by a government whose office it was to direct research, to suppress distracting engagements and to make instrumental rules for the conduct of the enterprise, to assign to each of its 'subjects' his role in the undertaking and to

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deploy their productive energies and talents according to a 'scientifically' deliberated plan.

In the generations following Bacon this understanding of a state as a *universitas* whose corporate purpose is the diligent exploitation of the resources of its territory for the satisfaction of human wants was elaborated with varying degrees of confidence in the speculations of numerous writers. It is the theme, for example of the writings of Samuel Hartlib and of Peter Chamberlen's *England's Wants*. On the Continent, particularly in France, it was promoted by the demands of the war. The idea of a state as a seigneurial estate or as itself a 'plantation' gradually receded before the idea of a state as an industrial enterprise and of government as factory-management; its rhetoric remained often that of millenarian expectation; and nowhere, perhaps, was it unmodified by the relics of the notion of civil association. But it appears, little qualified by other considerations, in the writings of the Comte de St. Simon whose avowed intention was to propagate a modernized version of the message he had received from Bacon.

Here, the human components of a modern European state are understood to be owners and managers of workshops, factories, and agricultural undertakings, scientific investigators, inventors of machines and industrial processes, technologists, artists, craftsmen, artisans, bookkeepers, bankers, merchants, shopkeepers, teachers, etc. (anything but *cives*) all engaged in producing (or helping to produce) and distributing useful things manufactured from the materials of the natural world. What is going on is the perpetual creation and satisfaction of substantive human wants. It is true that there are also some survivors from past conditions of things who may be recognized as mere consumers and have no part in this productive engagement: lawyers, soldiers, politicians, a nobility and some pathetic unemployables. But their numbers are insignificant. The producers recognize one another easily enough as the suppliers of such satisfactions as they mutually enjoy. But the absence of co-ordination not only hinders their activity, qualifying its success, it also conceals from them the fact that they are really nothing but role-performers in a single corporate industrial enterprise, associates in a single endeavour to exploit the natural resources of the earth for the satisfaction of human wants. And this 'real' situation is further obscured by the existence of rulers and legal obligations which clearly play no part in this

joint undertaking, meaningless relics of a pre-industrial condition of things. What, then, calls for recognition is the fact that a modern European state is not only the scene of industrial enterprises but is itself a corporate industrial enterprise, and the entailments of this situation. Civil relationships such as those of ruler and subject or citizen and citizen have become otiose; the only significant relationship is that in which the partners in this industrial enterprise recognize one another in this character. Government and civil law (that is, rules of conduct not instrumental to the success of the undertaking) are obsolete; what the situation calls for if it is to be efficiently exploited is an over-all managerial engagement in which the industrial enterprise is centrally planned and organized and such concerns as schools and universities are co-ordinated with it. And this *régime administratif* differs from the obsolete *régime gouvernemental* not only in being an engagement to compose a *plan général de travaux* and to make substantive decisions about how the enterprise should be pursued in contingent circumstances, but also in being a 'scientific' engagement, the concern of *lumières* equipped with reliable knowledge.

St. Simon's 'state', however, fell short of being an unqualified *civitas cupiditatis*: theology intervened. *Le Nouveau Christianisme* was a concession to the suspicion that the mere exploitation to the utmost of the resources of the earth, even when it is pursued under the direction of managerial experts, is an implausible principle of human association and that the *persona* with which an all-embracing industrial enterprise endows its participants is a somewhat exiguous identity: this Factory must also be recognized as an abode of brotherly if not divine love. But the reverberations of theology became less distinct in the utterance of each successive generation of the followers of Bacon: Fourier, Owen, Louis Blanc, Bellamy, Webb, Lenin; although they are still to be heard in the writings of Comte in one idiom and in those of Marx in another.

But if this understanding of a modern European state as a *civitas cupiditatis* (which, of course, is wholly different from what is called an industrial civilization) could properly emerge only when productive enterprise was released from the religious idiom imposed upon it by Bacon, the notion of a corporate productive enterprise required to be amplified before it could be recognized as the specification of a state understood as an 'economy'. The products of this *organisation du travail* had to be recognized as

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corporate income, and the manner in which it was to be shared among its members had to be recognized as no less a corporate concern than the manner in which it was produced. And, apart from those who expected the so-called 'social product' to be a bottomless abundance (like the land of Cockaigne) which would require no distribution, it was acknowledged that there must be some general rule of distribution or that it must fall to the custodians of the corporate interest, the *lumières*, to assign to each his share of the corporate income in an administrative act. But the manner in which this should be done, the criteria of this so-called 'distributive' justice, the priorities to be invoked, the devices to be resorted to, all these were, of course, matters for reflection. And the exploitation of this understanding of the character of a modern European state has been concerned with argument, calculation, discourse, and what Swift called 'visionary thoughts' on these themes no less than upon the theme of productivity.[1]

The relation of the classical economists to this understanding of the character of a state is oblique and must be briefly considered in order to distinguish it. Their starting-place was the historic manifold of modern European states with their colonial appendages, each understood to be composed of private persons (or families) seeking the satisfaction of their wants. These persons were assumed to be capable of making choices for themselves, to be accustomed to doing so, and to be apt to prefer the satisfaction of a want to the receipt of a benefit. But since the satisfaction of any of a man's more significant wants must depend upon his enlisting the response of others, and since the only certain and continuously operative means he has of doing this is his ability to provide satisfactions for the wants of others, these persons are recognized to constitute an association for the mutual satisfaction of wants. It is an association of would-be consumers who engage in productive activity and exchange their products (either directly or at a monetary valuation) with one another only in order to procure the satisfaction of their wants; indeed, productive enterprise is understood not merely as

[1] This theme of a 'solidarity of consumers' began to be explored in the generation of Bacon, but it was not until later that it was expressly recognized, as a supplement (or even an alternative) to the Baconian vision, in the writings of Babeuf (1760–97), Fourier (1772–1837). Simonde de Sismondi (1773–1842), Dupont-White (1807–78), Louis Blanc (1812–82), etc. And in this literature 'consumption' as the receipt of benefits is often confused with 'consumption' as satisfaction of wants.

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designed to produce wanted goods but as itself, internally, a want-satisfying activity. And it is an association for mutual benefit, not a corporate enterprise. For, although some of the wants of these associates may be common to many or even to all, there is no common substantive want the satisfaction of which they may all be supposed to be seeking; unless, perhaps, it is the 'happiness' of satisfying wants with the least expenditure of energy.

It was a *societas cupiditatis* of this sort which the classical economists set out to examine. And among the conclusions they reached in virtue of which their inquiry was recognizably concerned with 'political economy', the following are perhaps the more important. First, they thought that a condition where men are free to buy what they fancy (if they have the means to do so) and to make or provide what will bring them most reward is one likely to yield a larger number of satisfied wants than any other. Secondly, they understood that this condition was not self-sustaining. It requires defence against external enemies and against internal corruptions, and it is the office of civil authority to provide this defence. A modern European state is to be understood as a *societas cupiditatis* qualified by considerations imposed in civil law, considerations which are not themselves instrumental to the satisfaction of wants. Further, they thought that to put this *societas* under a 'management' concerned to impose upon it an *organisation du travail* and to distribute the benefits which accrue, and thus to transform it into a *universitas cupiditatis*, might result in a more efficient exploitation of the resources of the territory, and the talents of its inhabitants,[1] but it would necessarily be a total destruction of the association: the enjoyment of benefits would replace the satisfaction of wants and perhaps affluent role-performers would be substituted for satisfied or unsatisfied choosers. In short, they believed (as indeed St. Simon believed)

[1] Subsequent consideration purports to show this not to be the case. It is agreed (even by the Baconians) that nobody can know in advance what the exploitation of the natural resources of the world may yield; it is an open-ended engagement concerned with the acquisition and use of knowledge to satisfy wants. Consequently, to limit the number of persons concerned in it by placing it under the direction of an official *collegium* of inquirers and projectors must restrict its product. This may have other advantages; for example, in abating the wastefulness of overlapping enterprise. But the engagement 'to make nature yield what it has never yet yielded' must prosper most when the initiatives and choices of the directions in which it is pursued are spread as widely as possible and in proportion to the number of independent minds co-operatively concerned in it.

that a *civitas cupiditatis* was an association appropriate for individuals *manqués* who had no choices of their own to make and needed the direction of official *lumières*. Nevertheless, they thought that there was a place for the exercise of 'lordship' of a sort, as well as rulership, by the governments of states. This 'lordly' engagement was not (except in emergency) the suspension or qualification of the ordinary transactions which compose the association or of the civil conditions imposed upon them; it is a government, not distributing benefits, but providing satisfactions for wants which all, or nearly all, may be supposed to have in common and which would not otherwise be satisfied or not so easily satisfied: what the Romans call *res publicae*.

There was, then, something in the circumstances of modern European states to suggest that they might be properly understood, in this somewhat crude Baconian manner, as each an incorporated association engaged in the exploitation of a corporate property recognized to include the total resources of its territory and the talents of its members, and to suggest that the office of manager of the enterprise should be attributed to its government and its 'law' understood, in whole or in part, to be composed of rules for distributing its burdens, and perhaps also for distributing its product.

Sometimes in the history of a state this doctrine seems to have been stumbled upon inadvertently and accepted with reserve; and this, perhaps, was the case at one time in England. In the seventeenth century there emerged a legal doctrine of 'the public interest' which identified it not in terms of conditions of civility to be subscribed to in acting but in terms of actions designed to promote a desirable substantive outcome. Thus, charitable uses were recognized to be 'public', not in respect of civil conditions to which they were obliged to subscribe but because they were concerned to promote a desirable substantive condition of things, namely, the relief of poverty. And this small beginning made way for the view that a state was an association of persons which might properly be thought of as a development corporation and that any undertaking by private persons, such as building a house or a factory, which raised the aggregate level of prosperity was, for that reason, to be recognized as 'public' and exempted from having to take account of the otherwise actionable nuisance it might impose upon others or of the destruction of amenity it might entail. And

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this doctrine was found to be particularly acceptable where the undertaking concerned raised the level of unassigned prosperity. The building of a railway or of a new road, for example, was to be thought of as 'in the public interest' because it raised the level of unassigned prosperity and on that account should be protected against an injunction to desist or against a claim for damages by those adversely affected, and should thus not be called upon to bear its full cost.[1] And later, of course, this tentative modification of proprietary rights in favour of 'development' (that is, in favour of making 'nature yield what it has never yet yielded'), has been considerably extended.

But setting to one side such deviations from civil association in the direction of the *civitas cupiditatis*, the history of modern Europe has not lacked some deliberate and determined attempts to impose this character upon states, to transform them into development corporations whose members are related solely in terms of the enterprise and whose 'laws' are designed solely to promote its continuous success. Indeed, this has become one of the voices which the governments of all European states have used, some more eloquently than others, to announce to their confused (but often gratified) subjects their ambiguous understanding of the office they occupy. It is not the voice of 'sovereign' authority, nor, of course, is it the voice of civil rule, and it has nothing to do with 'capitalism'; it is the antique voice of 'lordship'. Nevertheless, none of the states of modern Europe has acquired this character without qualification, and nowhere has the exercise of lordship completely obliterated the engagement to rule.[2] But this is not the end of the story.

[1] 'Necessities may arise for an interference with the common law right to clean air *pro bono publico* ... private convenience must yield to public necessity'. Wilkes, J. *Hole v. Barlow* (1858). 'Where great works have been created and carried on, and are the means of developing the national wealth, you must not stand on extreme rights and allow a person to say, "I will bring an action against you for this and that, and so on." Business could not go on if this were so.' Lord Wensleydale, *St. Helen's* v. *Tipping* (1865).

[2] It was, however, this, the crudest of all the voices of lordship, in which European mentors addressed the emergent so-called states first of South American and later of Africa. Our disposition to recognize what is going on in terms of the constitutions (not the engagements) of governments and of techniques of ruling (not modes of association) has persuaded us that our gifts to these new states have been 'liberal' constitutions and a model for an apparatus of ruling, and we are sometimes surprised at their indifference to them. But what they have learned from us is an understanding of a state as a compulsory

A state recognized as a moral and religious *collegium* and one identified as a *civitas cupiditatis* came together in a version of corporate association which since the eighteenth century has established itself as the favoured modern idiom of a state understood in the terms of *universitas*; namely a many made one in devotion to a pattern of 'enlightened' conduct.

The eighteenth century expression *le despotisme éclairé* distinguished an understanding of a modern European state which owed something to the *nouvelle façon commune de pensée* of the *philosophe*, to its aversion from 'superstition' and its vague gnostic illuminism, and it was unambiguously intimated in the technological disposition of the *Encyclopédie*. Its link with the German *Aufklärung* was insignificant; and it is altogether remote from the beliefs about civil association explored by the writers of the Scottish Enlightenment. It confessed to having been inspired by the writings of Bacon, but it owed most to the managerial inventions of the governments of those states which emerged from the fiefs of the Empire and in which lordship was least qualified by a civil condition.

The idea of a state as an association incorporated in terms of 'enlightened' conduct was prefigured in much that went before: in the *respublica Christi*, and in the *administration de la parole de Dieu* of the Calvinist, in the sixteenth-century revival and corruption of Stoic beliefs about the connection between 'wisdom' and ruling, in the Baconian vision of a state as a technological enterprise and notably in the Puritan conception of governing as the imposition of Grace upon Nature. No doubt the *bene vivere* of Aquinas, the 'righteousness' of the Calvinist, the Stoic 'good life', Baconian 'well-being', the 'holy community' of the Puritan, the moral *verité* of Bossuet, the *vertu* of the *philosophe*, and the *homo felix* of 'enlightenment' represent marginally different views of the common end proper to be pursued by persons associated to compose a modern European state, but they are alike in being each the substantive purpose of a corporate enterprise and consequently in having been chosen from possible alternatives, and alike also in

corporate association and the notion of ruling as the management of a corporate enterprise, which they called 'nationalism'. What these states have never heard is the voice of civil association because we ourselves long ago suffered it to be confused with the 'liberal' concern for constitutional devices. When the President of Malawi said, 'I don't care what the world calls me, a dictator or what, my job is to develop this country', he spoke in a European voice.

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not being the choice of the associates themselves from which any could extricate himself by choosing to do so. They are notions of a state (that is, a compulsory association) in which it is recognized as a joint enterprise and not as an association of 'free' agents bound only by an obligation to considerations of civility. And to govern such a state was recognized to be a managerial and a tutorial undertaking and not merely an engagement of civil prudence. This, indeed, was the meaning of the word *despotisme*. An enlightened 'despot' in eighteenth-century Europe was not, like the Grand Turk, one who governed an association of rent-payers (rather than taxpayers) with the authority he derived from ownership and with total indifference to their activities; he was one whose engagements were 'lordly' in the European sense: the seigneurial manager of an estate.[1] What distinguished him was not the 'absoluteness' of his authority but his lordly engagement. There was nothing new or noteworthy in the insistence on the identity of the 'interest' of such a ruler and that of the corporation he managed: this is inherent in corporate association. And when, later, the lordly monarchs of the eighteenth century, claiming to be the heads of *gouvernements serviteurs*, were succeeded by 'democratically' constituted governments this claim was thought to be more plausible not because such a government, with each extension of the franchise, made this identity of 'interest' more certain, but on account of the confused belief that where 'the people' is lord there is no lordship.

The alleged purpose of this corporate enterprise was the 'well-being' of the associates. This, understood as the 'common good' of the association and identified as a 'virtuous life', gave to such a state a quasi-moral character in terms of which it became recognizable as a secular version of a 'holy community'. 'Virtue' here was analogous to Puritan 'righteousness' in being a pattern of substantive performances instrumental to an imagined satisfaction and allowing only functional variations; it differed in being a progressive (but not pragmatic) engagement directed by 'reason' in place of scriptural authority or divine inspiration, and in being one in which the sought-after satisfaction was the continuous

[1] All the enlightened rulers of the eighteenth century believed themselves and were believed by their subjects to rule by hereditary right, although some of them were muddled enough to wish it to be thought that their authority to rule derived from their 'enlightenment' which, of course, could not be the case.

promotion of an interest rather than the enjoyment of a final earthly or heavenly salvation. For the 'well-being' jointly pursued was composed of the satisfactions, whatever they might be, which continuously emerge from the unremitting and ever more efficient exploitation of the natural resources of the world. In short, the enlightened state identified itself as a development corporation in which virtue and cupidity were to constitute a single engagement directed or managed by a lord and his agents.

This, by itself, was no more than a sketch of the character of a state, leaving many questions both unanswered and unasked; but it was more than a merely imaginary Bensalem. It drew its inspiration from the not inconsiderable lordship enjoyed by the rulers of modern European states (some in larger measure than others); and in it their long-exercised control over foreign trade, markets, and industrial enterprises, their exploitation of the resources of colonial plantations, their continuous concern with the requirements of war, with the moral and religious solidarity of their subjects and with education, were given a fresh direction. What had been devices for raising revenue and the relics of their efforts to release themselves from alien authority were transformed into marks delineating a state as an integral association. But the real novelty of *le despotisme éclairé* lay not in a state understood as a corporate association, nor in attributing to a state this particular purpose, but in the clear recognition that the management of such a corporate enterprise requires an apparatus of lordship commensurate with the undertaking. And the exploration of this theme was, for the most part, the work of German thinkers. Whilst the wide-eyed *philosophe* and some of his predecessors imagined enlightened government to be the dream-child of 'sovereign' authority coupled with rational benevolence, the Cameralists were at work considering the apparatus of lordship required by the manager of such an enterprise.[1] The history of the enlightened state belongs in large

[1] The writers who came to be known as Cameralists were, for the most part, professors of public administration in German and Imperial universities: Ludwig von Seckendorff 1626–92 (Gotha), Von Hornigke 1638–1712 (Passau), Gasser 1676–1745 (Halle), Dithmar 1678–1737 (Frankfurt), J. G. Von Justi 1720–71 (Vienna and Göttingen), F. K. Von Moser 1733–78 (Darmstadt), Joseph Von Sonnenfels 1733–1817 (Vienna), A. L. Von Schlozer 1735–1810 (Göttingen). A general account of the principles of enlightened government is to be found in Von Justi: *Die Natur und das Wesen des Staaten* (Berlin, 1760). 'A properly constituted state', he wrote elsewhere, 'must be exactly analogous to a machine in which all the wheels and gears are precisely adjusted to one another;

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measure to the administrative history of modern European states.

The Cameralists, of course, drew upon the considerable products of administrative inventiveness of the rulers of modern European states since the fifteenth century and what they contrived was an apparatus of lordship novel in its totality rather than in its detail: they turned a collection of well-used expedients into an administrative machine. It was composed of boards, commissions, organizations, agencies, bureaux, authorities, and research institutes; of ministers, counsellors, directors, intendents, superintendents, financiers, accountants, *Steuerräthe*, *Fachmänner*, *Beamten*, surveyors of this and that, inspectors, statisticians, agronomists, botanists, architects, engineers, technologists, teachers, and astrologers, whose business it was to collect information, to draw up plans, to devise projects, to give managerial advice, and to implement the decisions of 'rulers'. Judicial offices occupied an inconspicuous place in this scheme, and (like the *philosophes*) Cameralists had little use for *parlementaires*. And if the 'rationality' of enlightened rule displayed itself first in the notion of a state as an association of human beings whose common purpose is to 'make nature yield what it has never yet yielded', it appeared secondly in the 'scientific' quality of the management of the enterprise: agents trained in an administrative doctrine and appointed solely in respect of their ability to sustain their offices.

Within this notion of the character of a state there was, of course, latitude for local variations, and it did not spring fully matured from the imagination of a demiurge. Its entailments emerged gradually, everywhere beckoned by what came to be called 'the march of civilization' and prompted by the exigencies of modern war. But there were implicit in it, and in most respects already half-revealed in the eighteenth century, the managerial engagements which have since constituted the commonplace concerns of modern European governments: substantial command over the resources of the estate, including the energy and the talents of its inhabitants; the directions of productive activity controlled by

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and the ruler must be the foreman, the mainspring or the soul (if one may use the expression) who sets everything in motion': *Die Chimäre des Gleichgewichts von Europa* (tr. G. Parry, *Historical Journal*, vi. 2). And two centuries later, Sidney Webb wrote 'The perfect and fitting development of each individual is not necessarily the utmost and highest cultivation of his own personality, but the filling, in the best possible way, of his humble function in the great social machine.' *Fabian Essays*, p. 54.

agreements, subsidies, exemptions, licences, penalties, man-power budgets, or orders, etc.; full employment or a guaranteed income; taxation transformed into a means of acquiring direct control over a large part of a 'national income' to be expended in favoured projects or distributed in the form of 'truck' or notionally tied income; a so-called rising standard of life; a concern for compulsory generalized education and technological training; the status of 'subject' receding before that of servant or pensioner of the corporation secured against debilitating vicissitudes of life; civil law receding before instrumental rules and the adjudication of civil disputes before the administration of instrumental rules and orders; the receipt of assured benefits taking the place of the pursuit of chosen satisfactions—all the lineaments of the Servile State. And the entire project obfuscated by calling it 'public' (instead of recognizing it as 'lordly'), by speaking of it as a 'social' engagement, and in the Continental convention in which the word 'state' came to mean the managerial apparatus itself and ceased to stand for an association of human beings.

Inspired in part by this vision of a modern European state and the proper office of its governments, but emerging from rulers already long concerned with the moral and religious integration of their subjects, with the practical pursuit of mercantile policies, with the requirements of war, with the exploitation of colonial plantations and with the 'problem of the poor', almost all European states were beginning in the last decades of the seventeenth century to acquire regimes corresponding in some degree to the characteristics of 'enlightenment': England and Hanover were noticeable for being relatively untouched.[1] But in spite of his not inconsiderable managerial experience a ruler who, in the eighteenth century, embarked upon the enterprise of imposing this character upon his state encountered strong opposition. Almost everywhere there was the contrary pull of civil association and the traditions of civil rule, later to be fatally confused with *laissez-faire* and with 'democracy'. He was impeded in most parts of Europe by a nobility not yet shorn of its *privilegia*, a Church still imperfectly integrated, local independencies still undestroyed, obstructive private proprietary rights, urban sophistications and traditional

[1] The absence of any large managerial engagement in this idiom from the government of England was often remarked by Continental writers (e.g. Montesquieu and de Lolme), but it was usually attributed to constitutional circumstances instead of to the relative strength of the belief in civil association.

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diversities in the countryside, populations subject to local servitudes, and (particularly in France) the resistance of peasant proprietors. His dream of a uniformity qualified only by functional differences and of the integration of all activities in a single centrally planned and controlled enterprise, was ill matched with his circumstances. And it is not surprising that the early achievements which sheltered under the expression *le despotisme éclairé* were miscellaneous rather than magnificent, reforms which reflected the impulses of enlightenment rather than comprehensive pieces of structural social engineering.

The managerial and tutorial urge of the rulers of France was powerful and the intrusive control exercised by the Conseil du Roi and its agents (*Intendants*) was as complete as circumstances would allow: a control of agriculture and industry by means of advice, inspection, regulations, subsidies, bounties, reliefs, grants, loans for improvements, production targets, requisitions, compensations for losses, price-fixing, vetoes, penalties. There is little in Morelly's dream, *Le Code de la nature* (1755) which was not already intimated in the regime. It was opposed until 1771 by the *parlementaires* and promoted (with some criticism of the detail and much of its inefficiency) by the doctrinaire economists. The Bourbon rulers of Spain set foot upon the road and Charles III was supported by two notable ministers, votaries of enlightenment, the Count of Aranda and Floridablanca; but they were defeated by a still-untamed nobility, the entrenched ecclesiastical control of education, by the aversion of the Spaniard from productive enterprise as a way of life, and by his intractable individuality. Pombal in Portugal got no further than some reforms in the mercantilist idiom; what he achieved in Brazilia he could not repeat at home. But the states which went furthest on the road (within the limits of their circumstances) were those whose rulers had felt the impress of German managerial expertise and had successfully outflanked the opposition of their nobilities: Austria, Sweden, Denmark, Russia, Poland, the Grand Duchy of Tuscany ruled by Leopold II, and the Milanese administered by Count Firmian. And in particularly favourable circumstances the achievement of Prussia was pre-eminent.

The rulers of Prussia had inherited the military engagements and organization of the custodians of the marches of the Empire and for the greater part of the century they were concerned with

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war. They had acquired the control of the church and of school and university education common to Protestant princes. The nobility, unlike that of France, were without significant 'liberties' other than those they owed to the King and could be conscripted into the administration. Nearly a quarter of the territory was composed of demesne lands in the lordship of the King and the resources of the newly acquired territories, such as Silesia and western Poland, could be exploited as 'colonial' lands; in 1740 the crown lands yielded nearly half the revenue of the ruler. And inspired by Cameralist doctrines an apparatus of management of then unrivalled probity and efficiency had been established. In all that concerns the organization of enlightened government Prussia, rather than France, was and long remained the tutor of Europe.

But if in most parts of Europe there were severe impediments to be overcome, there were also favourable circumstances to be exploited. A managerial government, particularly one with a vocation for management, requires subjects who will submit to being managed instead of ruled, and with these the enlightened rulers of Europe were not inadequately provided. Either they were those who (for whatever reason) had no choices of their own to make, the morally insecure and the intellectually disinherited, without resources of their own to understand and to respond to the enormity of this modernistic (so to say, Baconian) reading of the human condition and of the office of government, individuals *manqués* who sought a leader, *esclaves volontaires* as Duclos called them;[1] or they were the 'poor', the displaced, the helpless, beggars who could not be choosers, or merely those who had failed to keep up with the times, the *canaille* recently emancipated from one idiom of servility and not able to afford to be repulsed by the smell of another, 'la classe la plus nombreuse et la plus misérable' as St. Simon (quoting Necker) called them, not without some exaggeration. And who knows what overlap there was between these two kinds of persons, equally unfitted for civil association? Together they composed the natural-born recruits for the army of retainers which was to take the place of 'subjects' in states managed by lordly monarchs and their agents. Indeed,

[1] C. P. Duclos, *Considerations sur les mœurs de ce siècle* (1750). Pareto later identified them as those who, having no wants and no reliable notions about their needs (or indeed about the world they inhabit), are incapable of 'rational' conduct and whose 'behaviour' is determined by 'residual beliefs' propagated by a ruling élite.

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from one not insignificant point of view, enlightened government may be recognized as a new response to what had been called 'the problem of the poor'.

Thitherto 'the poor' had been regarded as an embarrassment: the idle and the feckless who, if they consumed little that little was more than they produced. They corresponded to the 'reprobate' of Calvinist political theology, the 'Nature' which might be kept in order by the Graceful rule of the Saints but which was irredeemable. But in the new dispensation of productivity they could be recognized as a wantonly wasted asset, as Peter Chamberlen's 'richest treasure of the nation', as the most useful and most ill-used members of a thitherto sadly mismanaged corporate enterprise,[1] as Robert Owen's infinitely pliable 'poor' indispensable to the undertaking in which 'nature erring and varying' was to be transformed into 'nature altered and wrought' in the service of mankind.

Moreover, for many of the votaries of enlightenment this recognition of the worth of the thitherto neglected was linked with a vision of moral regeneration. Those whom redundance, poverty, ignorance, and failure had deprived of any but an exiguous identity were to acquire a sense of their own worth and importance in being able to identify themselves as valued and no longer uncared-for members of a *solidarité commune* now called 'the nation'. They could not be endowed with a *potestas vivendi ut velis*; that measure of redemption was both undesirable and impossible.[2] Nor could they be consulted: 'the problem of social organization', wrote St. Simon in a characteristic utterance, 'must be solved *for* the people. The people themselves are passive and listless and must be discounted in any consideration of the question.' But they were to enjoy the happiness of no longer being at the mercy of mischance; they were needed and their fortunes were in the hands of skilful and benevolent managers.[3]

[1] *Encyclopédie*, art. 'Peuple'.

[2] A man's 'freedom', his capacity for agency, cannot be increased or diminished by obligations to subscribe to rules, but it may be inhibited by force and emasculated by eleemosynary benefits.

[3] 'The poor' were also a problem for those who understood a state in the terms of *societas*. They were recognized to be a threat to civil association because their erroneous belief that they had nothing to lose but their poverty made them the willing instruments of an ambitious man bent upon subversion: 'all who have deprived their own country of liberty have made use of the poor.' Botero: *The*

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The promise of enlightened government was modest. It was not a charitable project, but neither was it an engagement to restore lost rights to those who had suffered injustice: it was not at all conceived in the terms of civility but in those of lordship. Its inspiration was a 'rational' horror of waste. The attention of the managers was fixed, not upon a Baconian bonanza, but upon the efficient exploitation of the resources of an estate. The apparatus of management was still rudimentary. And the dreamed-of situation in which 'an administration of eighty or ninety Ministries cared for and managed every manifestation of the national life',[1] in which every activity was what it was in relation to 'national life', and in which the individual pursuit of imagined satisfactions had been almost wholly superseded by the enjoyment of assured benefits, was still a distant prospect. Nor, except in times of war, was it clearly foreseen that *le despotisme éclairé* required, not only a 'poor' who neither had nor could have any incentive to resist the intrusive management of their lives, but a whole people who had been, in this sense, pauperized; that is, persons deprived of their status as 'subjects' obligated to subscribe to conditions of civility and transformed into the servants of a compulsory corporate enterprise. No doubt the boyar must go, but the necessary desuetude of civil association, the impossibility of a government devoted to enterprise being also a restraining moral authority prescribing conditions to be subscribed to in pursuing purposes, the contrariety of

Reason of State (1589), IV. 7. And similarly Machiavelli and others, often inspired by Roman rather than modern history. The only remedy suggested was to be relentless with such conspirators and indulgent with their unfortunate dupes. But Hegel was an unequivocal modernist who took a more sophisticated view of the matter. Modern poverty was a relative not an absolute condition, and it was the counterpart of modern wealth rather than a sign of personal inadequacy. In the circumstances of modern industrial enterprise the poor could be expected to mislike their poverty more than anything else, and they constituted a danger to civil association on account of their disposition to be persuaded that poverty would be abolished if a state were itself transformed into an industrial *universitas* in which equal rations for all replaced varying success in procuring the satisfaction of wants; that is, in the exchange of *their* indigence for a common servility. But, apart from this, great disparities of wealth were an impediment (though not a bar) to the enjoyment of civil association; and this hindrance could and should be reduced by imposing civil conditions upon industrial enterprise (similar perhaps to those designed to prevent fraud or the pollution of the atmosphere), and where necessary by the exercise of a judicious 'lordship' for the relief of the destitute.

[1] Pérez Galdós: *The Spendthrifts* (1884).

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substantial lordship and civil rule vested in one office—all this was either hidden or ignored as of no account.

Meanwhile, the engagement of *le despote éclairé* was not only to manage his state as an integration of substantive activities but to groom the *canaille* for the role in which they had been cast: the task, as it was said, of 'educating' them.

The appropriation of the *potestas docendi* by the rulers of modern European states had been, in the first place, little more than an assertion of their 'sovereign' authority in matters of religion. It had been used to adjust an already existing educational engagement to the concerns and doctrines of a 'national' church, whether Catholic or Protestant: the 1535 Visitation of Oxford and Cambridge prescribed more study of the Scriptures and less of scholastic theology. But the remarkable efflorescence of the educational engagement which coincided with the emergence of modern European states was largely the work of independent educators who, even where (like the Jesuits) they worked in an ecclesiastical interest, were inspired by the 'humanist' appreciation of the significant inheritance of human understandings to be passed on to future generations which for long after determined what was taught in the collegiate and grammar schools of England and the so-called Latin schools of the Continent, the progenitors of the *gymnasia* and the *lycées*. It was persons like Melanchthon, Johann Sturm of Strasbourg, and Roger Ascham who mediated the change from monastic and courtly to modern education; and persons like Commenius who set on foot changes in the technique of teaching and learning. Rulers often played a considerable part in this enterprise, but it was as patrons of learning not as managers of a system of education. And the most notable efforts to extend educational opportunities to the poor, such as those of the Brothers of the Common Life in Zwolle and Bar-le-Duc, were private undertakings devoted (like the earlier monastic schools) to imparting a Christian culture, perpetually renewed. For these education was the engagement of initiating successive generations into a moral and intellectual inheritance.

But to all this the *despotes éclairés* added a new dimension: neither Frederick the Great nor Joseph II nor the educational reformers of eighteenth-century France were patrons of learning. And what was set on foot in many of the states of Germany (notably Prussia), in the Empire, and in France was not an attempt

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to change the character of existing schools and universities but a project to provide some alternative apprenticeship to adult life for those who, mainly on account of their poverty, had enjoyed little or nothing of the kind. The children of 'the people' were to be instructed in some humble but more modern skills in virtue of which they might become more of an asset and less of a liability to 'the state' and in respect of which they might recognize themselves more clearly as intelligent components of its natural resources, its human 'capital'.

This was the project of the Prussian *Landschulregiment* of 1763, the most ambitious of many similar undertakings of the time. The institutions in which this instruction was imparted were a mixture of old and new and reflected local inheritances: the surviving village schools of Christendom which had depended upon the uncertainties of local charity and the energy of priest or pastor. But the project emerged clearly when attendance was made compulsory, when its extrinsic purpose was more exactly formulated, when it was placed under the management of a Minister of Education, and when it was seen to promise a genuine *éducation nationale*, the emblem of the central doctrine of enlightened government: the right and the duty of the government of a modern European state to 'school the nation' in such a manner that each of its human components might recognize himself as a member of the corporate association and be made fit to contribute to the pursuit of the corporate enterprise according to his abilities and in relation to the current managerial policy. The rhetoric of this policy was for the most part the invention of French writers, a rhetoric in which servility is identified as emancipation. In 1763 La Chalotais already claimed in his *Essai d'éducation nationale* that the children of *la nation* were the property of the state. And while this doctrine at first concerned only 'the poor', it was gradually extended to all 'subjects' wherever this understanding of the character of a state flourished. Indeed, the degree in which in any European state this project of a compulsory and uniform *éducation publique*, managed by its government, has swamped all other educational engagements may be taken as an index of the strength of this conception of the character of a state.

Enlightened government was, then, the most comprehensive version of a state understood in the terms of *universitas* and of government as a teleocratic engagement to have appeared since the

emergence of Europe as a manifold of states. It accommodated all that had gone before and it intimated almost all that was to come after. The choice of 'well-being' or 'welfare' to denote the purpose proper to be pursued allowed for a large range of interpretation: it imparted a moral tone to an otherwise sordidly indiscriminate enterprise, it made unnecessary any substantial change when differently constituted governments succeeded to the lordly monarchs of the eighteenth century and when a factory rather than a landed estate was recognized as the appropriate corporate analogy for a state.

There is, however, another distinguishable version of a state understood in the terms of *universitas* which deserves notice. It, also, is not without its ancient lineage and in some respects it may be recognized as the residual belief hidden in all versions of this understanding. Here, a state is understood to be an association of invalids, all victims of the same disease and incorporated in seeking relief from their common ailment; and the office of government is a remedial engagement. Rulers are *therapeutae*, the directors of a sanatorium from which no patient may discharge himself by a choice of his own.

The notion that disease (variously specified: mortality, sin, guilt, enstrangement from God, liability to error, pride, egoism, anxiety, *anomia*, etc.) is an attribute of 'human nature' itself is, of course, a well-worn idea; and stated in various degrees of sophistication it has been one of the most compelling images of the human condition. It occupies a place in Christian doctrine and it received extensive recognition in Christian heresy, particularly in that which derived from the teachings of Mani; it was already one of the commonplaces of European thought when the associations called 'states' were emerging and offering themselves to reflection.

Where the disease has been thought to be incurable (or as nearly so as makes no matter), or where it has been believed that a divine remedy has been provided, promising complete restoration and meanwhile supplying relief, the outcome in terms of beliefs about the character of a state could not be very significant. The most that could be attributed to government in the circumstances was the engagement to mitigate some of the more disagreeable symptoms. It would be otiose to assign it a redemptive office. Where the

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disease has been recognized as an emblem of a destructive principle of evil in the universe and the prescription for its cure has been believed to lie in a body of esoteric information (*gnosis*) conveyed to mankind by the human messengers of a hidden and benevolent God, it might perhaps be believed that rulers are among these messengers or that these messengers should themselves occupy the office of ruler. And there can be little doubt that it was in terms of some such doctrine that Bacon assigned this office to a corporation of *illuminati*. But where it has been believed that the most important characteristic of human beings is that they are alike victims of an identifiable disease and that this derangement, so far from being of cosmic significance, is a historic morbid condition which they have brought upon themselves, and where this has been joined with the belief that the 'common good' may be identified as the recovery of sanity (and not, for example, the maximum exploitation of the resources of the earth) and that cure is within human capacity, then the way is open for the recognition of a state as a contingent association of sufferers, for attributing to the government of a state a prophylactic and a therapeutic office, and for identifying 'politics' with the promotion of this reading of the human condition. Just as St. Simon understood the outstanding 'fact' of modern times to be industrial enterprise and concluded that consequently a state should itself be an industrial enterprise, so here the outstanding 'fact' of modern times is understood to be universal neurosis and it is concluded that a state should be understood as an association of human beings undergoing treatment. And remote as this understanding of the character of a state may seem, numerous writers have guided European thought along this path.

The exploration of this understanding of a state in the last hundred and fifty years has been adventurous. A variety of diagnoses of the disease have been suggested, both trivial and grave: poverty, indolence, insecurity, the feeling of being unimportant, urban life, industrial society, sexual frustration; the anxiety which began to haunt the conscience of the seventeenth century; the unspecified 'frustration' which nineteenth-century poets called the 'malady of modernity' and the 'alienation' which flickered through the thoughts of many diagnosticians and which Karl Marx endowed (as he endowed everything he touched) with the quality of a superstition. Indeed each successive generation of

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writers has had its own diagnosis, and every new circumstance has suggested a new specification of the 'alienation', the 'frustration', or the 'insecurity' to be remedied.

Various accounts have been given of the emergence (or, as it is said, the 'cause') and the history of the disease, and some diagnosticians have even claimed a 'scientific' status for their conclusion that 'we are all ill' and for their specification of the indisposition. The therapists are distinguished from their patients in virtue of their skill; they are currently sociologists, social psychologists, psychiatrists, group therapists, and what are called 'trained social workers', and their engagement is 'counselling', 'behavioural engineering', or 'behaviour modification'. And, of course, for associates joined in being diseased and recognizing themselves not as *cives* but as the 'subjects' of *therapeutae* (as well as for the therapists themselves), everything is what it is in terms of its curative virtue: work (except, of course, 'social work') is 'occupational therapy', education is curative,[1] leisure is remedial treatment, 'environment' is prophylactic. Just as Bacon understood everything (religion, poetry, work, and play) in relation to the enterprise of exploiting the resources of the earth, so here everything is understood in relation to 'sanity'; that is, a uniform so-called normality. In short, whereas the subjects of 'enlightened' government were identified as somewhat doltish children, sunk in ignorance, prone to idleness and folly, and in need of instruction, discipline, and management, here they are understood to be 'disturbed' patients in need of 'treatment'. Those who have taken this view of the character of a state and the office of its so-called 'government' have properly recognized that the achievement of its purpose will signal its demise; a therapeutic engagement, unlike that of the exploitation of the resources of the earth, has at least a notional terminus. But what is important for us is that the engagement itself, not merely its successful completion, signals the demise of civil association.

As with much else in recent times, the intellectual exploration of the character of a state in the terms of *universitas* and of the office of government as a managerial engagement has long since come to an

[1] The *éducation publique* is itself understood as a curative process of 'socialization' and it has attached to it a so-called 'educational social service' designed to remedy the effects of parental neglect or indifference.

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end; the repetition of *idées reçues* has taken the place of reflection.[1] And long before this notion reached the twentieth century it included so many reminiscences of earlier versions that it now appears more like an anthology of beliefs than a coherent doctrine. In the miscellaneous bunch of beliefs which now shelters under the name of 'socialism', for example, the once sharp distinctions between the religious, the enlightened, the redemptivist, the therapeutic, the productivist, and the distributivist idioms of teleocracy have been worn smooth and they appear now as internal tensions upon which votaries may ring the changes in advocacy. Here and there an almost pure reminiscence is discernible: all the current versions are indelibly Baconian, the connection between Fabianism and Cameralism is unmistakable, and the millennial expectations of earlier versions survive in the current celebration of Progress, the conviction of participation in a benign teleological process. Some new expressions have been thrown up—'the social service state', the 'Welfare state', 'social security', 'socialization', 'social ownership', 'nationalization', 'integration', 'cultural engineering', 'communism', 'collectivism', 'National Socialism', a state understood as a 'public service corporation' etc.—but none that would not have been immediately intelligible to Von Justi and his fellows and few that would have seemed odd (except in their vagueness) to Thomas Cromwell, Bacon, Calvin, Frederick of Prussia, St. Simon, or to anyone disposed to identify ruling a state with the exercise of lordship. And any novel direction which this understanding of a state has taken in recent times owes more to circumstances than to design. The teleocratic drift which two world wars imparted to all European governments (combatants and neutrals alike) and the techniques of control and integration devised in these circumstances have been reflected in an ever more confident belief in its appropriateness.

The notion of a state as an all-embracing, compulsory corporate association and of its government as the manager of an enterprise is, then, to be recognized as one of the most obtrusive of the strands which constitute the texture of modern European political reflec-

[1] The now vast literature concerned with what is currently called 'the science of politics' should, perhaps, be recognized to have broken new ground here and there. But it is either securely fastened to states understood as development corporations of one sort or another and to the notion of government as a managerial engagement, or concerned with organic or mechanical processes and not human conduct.

tion. It is not (as is sometimes thought) the outcome of recent intellectual adventures, nor is it a response to a long age of governmental indifference and negligence, to so-called 'capitalist' industrial undertaking, to more populous territories, to 'atomized societies', or to lately 'self-alienated' subjects. It is a manner of thinking which was coeval with the emergence of Europe as a manifold of states and it had already been explored in connection with the realms and principalities of medieval times. It reflects, not the fancies of visionaries, but some of the contingent features of these states and the circumstances of their emergence: the relics of ancient communities and enclaves of communal life they destroyed; the surviving lordships of rulers and the continuous augmentation of the apparatus of governing; the signature of war upon the pages of modern history; the *plentitudo potestatis* acquired by sixteenth-century kings and princes when they snatched the *auctoritas docendi* from the medieval church and added it to their lordship; the greed of some of their subjects, the circumstantial helplessness and cultivated resentment of others, and the indifference of many to civil liberty; the illusions of democracy; and it is what these governments, from time to time, inadvertently or by design, have made of them.

It is an understanding of the character of a state which has bitten deep into the civil institutions of modern Europe; it has compromised its civil law and corrupted the vocabulary of civil discourse. Among its outcomes have been Parliaments, first deprived of their characters as critics of civil rule and as partners in the custody of a *respublica*, then turned into markets where private interests clamour for awards from patron governments or bargain with one another for the enjoyment of satisfactions, and finally persuaded to think of themselves as committees of shareholders in a corporate enterprise; laws degraded into instruments of managerial policy (*les règles hygiéniques* of an enterprise, as St. Simon thought of them); and words such as 'state', 'government', 'politics', 'public', 'freedom', 'rights', 'duty', 'justice', 'democracy', 'taxation', etc., devalued by being infected with equivocation. Occasionally regimes have emerged which in their determined exploitation of lordly dispositions may be said, with pardonable exaggeration, to 'represent' this understanding of a state; the withering away of civil association. But this is of no importance to us except for the evidence it affords about this understanding of

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the character of a state. In fact, no regime in the five centuries of modern European history has ever 'represented' this understanding of a state entirely without qualification; the voice of civil association has, here and there, sunk to a whisper, but nowhere has it been totally silenced.[1]

10. Modern European reflection about the character of a state and the office of its government has, then, explored two diverse analogies, each denoting a distinct mode of association with a logic of its own, in terms of which to understand it: that of civil association and that of enterprise or purposive association. What these two understandings have in common is the recognition of a state as an exclusive association: no man may be a member of two such associations.

Civil associates are persons (*cives*) related to one another, not in terms of a substantive undertaking, but in terms of the common acknowledgement of the authority of civil (not instrumental) laws specifying conditions to be subscribed to in making choices and in performing self-chosen actions. A state understood in these terms is identified as a system of law and its jurisdiction. The office of its government is to be the custodian of a *respublica* composing a system of civil law, to adjudicate disputes about the meanings of its component laws in contingent situations, to give recognition to actions and utterances performed in adequate subscription to them, to penalize inadequate subscription and to redress injury arising from it, and to authorize amendments to this *respublica*. The mode of association here is, therefore, formal; not in terms of the satisfaction of substantive wants but in terms of conditions to be observed in seeking the satisfaction of wants. The common concern of *cives* is solely to act justly; that is, in adequate subscription to the prescriptions of a *respublica* capable of being amended in response to changed understandings of what is 'just'.

The exclusiveness of a state thus understood is specified in the impossibility of acknowledging the authority of two discrepant systems of civil law or of falling within two different sovereign jurisdictions. Such a state is, further, an inherently compulsory

[1] It is perhaps worth notice that notions of 'world peace' and 'world government' which in the eighteenth century were explored in the terms of civil association have in this century become projects of 'world management' concerned with the distribution of substantive goods. The decisive change took place in the interval between the League of Nations and the United Nations.

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association in respect of being relationship in terms of the acknowledgement of the authority of a *respublica* and not in terms of approval by all or any of the associates of all or any of the conditions it imposes upon conduct. And it is a contingently compulsory association because, although an association in this mode might be constituted in the choices of each and every associate to be related in terms of the authority of a *respublica*, no modern European state has ever been constituted in this manner.[1] The logical counterpart of this contingent compulsion is the impermissibility of outlawry and the equal status of 'subjects' or *cives*.

In virtue of civil association not having any substantive purpose of its own a state understood in these terms is inherently accommodating to all expressions of the associative propensities of its members, noticing them (as it notices all other actions and utterances of *cives*) only in terms of the civil conditions to which they are required to subscribe. Civil associates may, at choice, enter into relationships of affection, of discourse, of gainful enterprise, or of playful engagement, but in respect of being civilly associated they cannot be either required or forbidden to do so; they are required only to subscribe to the conditions specified in *respublica*. Thus, the 'freedom' inherent in this mode of association lies, first, in the associates *not* being related to one another in the pursuit of any substantive purpose they have not chosen for themselves and from which they cannot extricate themselves by a choice of their own, and secondly in their actions and utterances being not even officially noticed or noticeable (much less subjected to examination or direction) in respect of their substantive character but solely in respect of the civil conditions to which they are required to subscribe. And it is a 'freedom' to choose which is not only exercised in the performance of substantive actions but is also postulated in subscribing to the conditions of *respublica*: laws cannot either specify actions or exhaustively define subscriptions to themselves. This 'freedom' cannot be increased by the enjoyment of a right to participate in the care and custody of *respublica*; it is not decreased by the absence of such a right; and those who have the authority to make or to amend the provisions of a *respublica* are neither more nor less 'free' than those who do not. In short, the civil condition

[1] Universal oaths of loyalty have been imposed (e.g. in mid-seventeenth-century England), but normally they have been required only of naturalized subjects, i.e. volunteers.

and a state understood in terms of civil association postulates self-determined autonomous human beings seeking the satisfaction of their wants in self-chosen transactions with others of their kind.

An enterprise association is composed of persons related in terms of a specified common purpose or interest and who recognize one another in terms of their common engagement to pursue or to promote it. Each associate knows himself as the servant of the purpose being pursued. They may also recognize themselves to be associated in terms of some rules of conduct, but since these rules are, like the associates themselves, instrumental to the pursuit of the common purpose, this does not constitute a distinguishable relationship. But a purpose can be pursued only in the performance of substantive actions; consequently, these associates are not merely joined in the recognition of their common purpose but also as co-operators related in the performance of actions each of which is (or is alleged to be) contributory to the achievement of the common purpose. This mode of association is, then, substantive; it is association in co-operative 'doing'. And there may be as many such associations as there are purposes to invoke joint pursuit.

A state understood in the terms of purposive association is, then, identified in terms of a purpose and of the persons joined in pursuing it. This purpose is not merely one among many which these persons, or groups of them, may from time to time choose to be joined in pursuing, nor is the sum of all such purposes: purposes modify one another and cannot be related in terms of addition if only because each is necessarily a competitor for the total resources of time and energy. It is their sovereign purpose, that which determines all others; their so-called 'common good'. And the office of the government of such a state is to specify and to interpret this sovereign common purpose and to manage its pursuit; that is, to determine how it shall be pursued in contingent circumstances and to direct the substantive actions of the associates so that the performances of each shall contribute to its achievement, or to settle disputes about what actions do or do not contribute.

The specification of the exclusiveness of a state thus understood is, then, twofold. First, because it is an enterprise association it cannot itself have two or more discrepant purposes; if the enterprise is identified in terms of multiple purposes, then they must be

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related to one another systematically or in terms of means to end. Secondly, just as such a state cannot tolerate performances eccentric or indifferent to the pursuit of the purpose which constitutes the association, so it cannot accommodate purposive associations whose purposes are eccentric or indifferent to its purpose. There can be an unregulated variety of self-chosen purposive associations only where a state is not itself a purposive association. What are called 'minority' associations can exist only where a state is recognized in the terms of civil association; and there they require no authorization. Further, a state thus understood is an inherently compulsory association because the relationship it constitutes is not only in terms of the authority of the common purpose (from which no divergence is permitted) but also in terms of the authority of the managerial decisions which specify how it shall be contingently pursued. To be a member is to have surrendered choice in these matters.[1] And it is a contingently compulsory association because, although an association in this mode is, properly speaking, constituted in the choice of each and every associate to be related in terms of a common purpose and of the choice of each and every associate to recognize as his own the managerial decisions which determine how it shall be contingently pursued, no modern European state has ever been constituted in this manner. The counterpart of this contingent compulsion in which the associates are deprived of their self-determination in conduct is a government whose office it is not merely to find a place in the common enterprise for every associate and to leave none without directions about what he shall do, but to dispose of the talents of the associates to the best advantage, to sustain each associate in the performance of his role, or to support him when (on account of some mismanagement) he is 'unemployed'. Conduct eccentric or indifferent to the common purpose corresponds to 'treason' in a civil association; and an associate not employed in the common enterprise and sustained in his role or one denied support is the equivalent of an outlaw.

The 'freedom' inherent in purposive association is that of the choice to be associated and the consequent capacity to dissassociate

[1] The inherently non-optional character of such a state would no doubt, be modified if its government were so constituted as to permit none but unanimous decisions of all its members about what was to be done; but while a *liberum veto* is a well-known recipe for crippling an association of any sort, it is a certain recipe for extinguishing a purposive association.

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if the purpose or the management of its pursuit is disapproved. But where the association is a state this is excluded by the logic of its constitution. Allegiance here (as in every purposive association) is to the common purpose, but no associate can divest himself of it because none has undertaken it. Each is the property of the association, an item of its capital resources. He may contingently escape, but whether he remains or whether he is permitted to go must be a management decision; and, of course, this is recognized to be the case in all modern European states which have approximated to this condition.[1] This, it might be thought, reveals a state understood in the terms of enterprise association to be a somewhat rickety moral construction, but that is a matter which I have refrained from exploring in order not to prejudice the investigation of its substantive character.

But when this 'freedom' of association and disassociation is excluded, what remains? The 'freedom' inherent in such a state is the condition of being released from every care in the world save one; namely, the care not to be idle in fulfilling one's role in the enterprise, not to inhibit or prejudice that complete mobilization of resources which constitutes such a state. It is a condition in which having wants and seeking often elusive satisfactions, and the attendant risk of the frustration of one's purposes, have been replaced by the enjoyment of assured benefits. To the obedient will accrue a share in the profits of the enterprise, and the desirable constitution for the government of such a state will be one which makes this more rather than less certain. The member of such a state enjoys the composure of the conscript assured of his dinner.[2] His 'freedom' is warm, compensated servility.

In the circumstances of modern Europe these two ideal characterizations of a state and the office of its government have become two well-trodden paths, upon which many minds have gone up and down, each leading to a destination, a theoretical under-

[1] It is not easy to rebut the view that the logic of a state thus constituted assigns to the office of its government the authority to exterminate associates whose continued existence is judged to be irredeemably prejudicial to the pursuit of its purpose.

[2] In the last war every soldier in the British army had a dinner, 'my dinner', notionally the equal of every other soldier's dinner. He might not be at hand to eat it and it might be difficult to locate it: if he were posted to hospital it would follow him but perhaps at an interval of a day or two. But beyond all doubt it existed, if not in the cookhouse, then certainly in the books of some Q.M.

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standing more or less exactly specified: the one (signposted *societas civilis: imperium*) to a formal condition, and the other (marked *universitas: dominium*) to a substantive condition. The recognition of these destinations has never been so exact as to avoid all confusion, and there have been strayed travellers on each of these paths expecting to arrive where it does not lead. Even the essential difference between the destinations has been obscured. The erroneous belief that all human relationship must be in terms of purposes pursued and actions performed has persuaded many that all human associations must be composed either of persons transactionally related in seeking individual satisfactions, or of persons co-operatively related in seeking common satisfactions, and consequently that the character of a state *must* be identified as some sort of substantive condition of human circumstance. Thus, a state understood in terms of *societas* is often called 'free enterprise' association, whereas properly speaking it is 'no enterprise' association. And the signs used for the recognition of each of these destinations have themselves often been imperfectly specified. It has been thought, for example, that 'the rule of law' is enough to identify civil association, whereas what is significant is the kind of law: 'moral' or instrumental. Travellers have not always been scrupulous in reporting where their intellectual journeys have led them, and in recent times intelligent explorers on foot have been few on these journeys as on any others: the travellers prefer to go by air and at night, reaching their destinations in sleep. And the confusion has been increased by jokers of both persuasions who, in deference to the vulgar, have altered the signposts to read: Right Left; Reaction, Progress; Stagnation, Development: Poverty, Affluence; Conservative, Liberal; Cul-de-Sac, Open Country; Liberty, Security; Authority, Liberty; Conflict, Peace; Competition, Co-operation; Unconcern, Responsibility; Indifference, Compassion; Apathy, Brotherly Love; Hell, Heaven or Heaven, Hell, etc. And even totally irrelevant designations have been posted, such as: Democracy, Authoritarianism, Capitalism, Bureaucracy, Pluralism, Centralism, etc. And before now a whole generation of would-be travellers has awakened to find that one of these jokers has posted both the paths with the same inviting sign: Freedom, Jerusalem, or Cockaigne.

Nevertheless, even when each of these directions of thought is clearly identified, a conflict remains: they both purport to refer to

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the character of a modern European state and they are irreconcilably opposed to one another. This would be unremarkable or not at all disconcerting if each began and ended as an attempt to theorize the character of a modern European state and the office of its government. If this were the case, it would be enough for the commentator to specify each, to distinguish the one from the other as clearly as may be, and to explore the fortunes and entailments of each of these intellectual adventures. He might observe, for example, that whereas the members of a *societas civilis* are capable of political activity, the partners who compose a corporate association are capable of considering desirabilities only in terms of its common purpose; or that a government recognized to be the promoter of an interest makes sense only when a state is understood as a purposive association. Or he might remark that modern European so-called 'anarchism' is a somewhat muddled response to a state understood as an enterprise and to government recognized as the exercise of lordship, and that it has no meaning or relevance whatever in relation to civil association.[1] Or he might notice that when a state is understood as a purposive association the analogy has been fatally corrupted: association in terms of a common substantive purpose *must* spring from the choice of each associate to be thus joined with others, a choice which he must be able to revoke, and no modern European state has ever been of this character.

But these dispositions of thought are not merely directions of theoretical inquiry; they are diverse recognitions of the character

[1] The 'law' objected to by the 'anarchist' is not (as he is apt to think) civil but instrumental law, and he further misunderstands it by attributing to it the character of a command which calls for a substantive performance in response. But when Péguy looked forward to a revolution in which all authority would be abolished (*Ma révolution supprimera toute authorité*), he meant release from the Baconian yoke, release from the *Organization du travail* which he mistook for 'capitalism' and misidentified with a modern European state. And this also was the 'redemption' sought by Ernst Jünger and Ernst Toller and other 'anarchists' of the German school whose writings echo Hölderlin's indictment of the *civitas cupiditatis*: the outcome of trying to make the state a paradise has always been to turn it into a hell. The writings of Proudhon (by far the most intelligent explorer of the idea of 'anarchy' in modern times) are a prolonged condemnation of a state understood in the terms of purposive association, which he identifies as *une uniformité béate et stupide, la solidarité de la sottise*. He describes his concern as: 'Trouver un état de l'égalité sociale qui soit ni communauté, ni despotisme, ni morcellement, ni anarchie, mais liberté dans l'ordre et indépendence dans l'unite'. *De la célébration du dimanche*, p. 59. Not a bad specification of the civil condition.

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of a state and of the office of its government which together compose the political consciousness of modern Europe. And to understand a modern European state is not merely to understand an experience which has proved itself capable of evoking or of tolerating these alternative readings of its character; it is to understand an ambivalent experience. What has to be accounted for is not the presence of either of these two characterizations, but a political imagination which is itself constituted in a tension between them. In short, my contention is that the modern European political consciousness is a polarized consciousness, that *these* are its poles and that all other tensions (such as those indicated in the words 'right' or 'left' or in the alignments of political parties) are insignificant compared with this.

Assent to this reading of the character of a modern European state may be withheld on the ground that it leaves an incoherence which, it is thought, should be capable of resolution. And there are writers who, perceiving some such duplexity as I have described, have tried to make it intelligible to themselves by recognizing one of these dispositions as dominant and the other as recessive, and who look forward to a future in which the recessive will have passed away and a state appear purged of ambivalence. And it has been usual to identify a state as a purposive association as the dominant characteristic of the modern European political imagination and civil association as the recessive. But even when the more absurd versions of this view have been put on one side (I mean versions in which the recessive is identified in wholly irrelevant terms such as 'capitalism'), it remains unconvincing.

Thus, it has been suggested that the history of modern Europe is to be understood as a continuous, painful, and partly successful 'quest for Community'. The emergence of modern European states is alleged to have been the destruction of a civilization of 'communities', of persons who knew themselves as partners in communal solidarities and identified themselves with profound satisfaction in terms of collective purposes. (St. Simon thought this of France.) No cataclysmic change is alleged, but gradually the cold and hostile world of transactional engagements between strangers (identified as 'possessive individualists') is said to have supervened upon this communal intimacy and warmth. What I have called a state understood in the terms of *universitas* is said to be an expression of the longing of European peoples for a lost

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sense of 'community' and to be an effort to recover a lost communal identity. And the writings of Rousseau and others are reputed to be concerned to recall to the alienated *cives* of European states what Comte spoke of as *la pensée de l'ensemble et le sentiment de la solidarité commune.*

But this view of the matter has little to recommend it. First, the distinction between association in terms of co-operative enterprise and association in terms of transactional engagements is a distinction *within* purposive association and it is a distinction without significant difference. And even if the emergence of modern European states were plausibly marked by the decline of the one and the rise of the other (which it was not), this would have no bearing whatever upon the relative fortunes of these two understandings of the character of a state. A state as a conciliator of interests and a state as the promoter of an interest are equally remote from civil association. Secondly, medieval realms are parodied if we neglect their memorable achievements in exploring the intimations of civil association, and the achievements of modern European states in this respect are misrepresented by identifying them with the creation of a so-called 'atomized' society. The urge to impose upon a state the character of a *solidarité commune* is certainly a notable disposition but, so far from being the dominant disposition of the modern European political imagination, it is easily recognized as a relic of servility of which it is proper for European peoples to be profoundly ashamed—even if they retain a sneaking regard for the cold comfort of its *solidarité.*

It is, of course, true that the path marked *universitas: dominium* has been, in recent times, the more crowded with travellers. It has been trodden not only by genuine intellectual explorers but also by large conducted parties of the helpless and the bewildered led by half-men usually devoid of respect for their followers. But, while those who are disposed to take the other path are, perhaps, fewer and are often denigrated as frivolous individuals merely out for the walk, no European alive to his inheritance of moral understanding has ever found it possible to deny the superior desirability of civil association without a profound feeling of guilt.[1] The *persona* who is the counterpart of civil association, he whom Montaigne and

[1] This feeling is customarily assuaged by self-contradiction. The sayings of the teleocrats rarely fail to make a bow in the opposite direction: 'We desire a fully planned economy, the public ownership of all the means of production,

Rabelais celebrated, is neither a savage egoist, nor a cold 'capitalist', nor the contemptible bourgeois of legend who (having played his part) is now become a moral embarrassment; and he is by no means an obsolescent character.

Alternatively, it has been believed (or at least said) that the dominant disposition of the modern European political consciousness favours a functionally integrated solidarity, the enjoyment of uniform benefits, and rulers who are patrons of preferred performances, but that this is not to be understood as an urge (such as Durkheim and others detected) to recover the warmth of a lost communal solidarity and thus escape the burden of having to make choices and suffer disappointments: it is alleged to be the destiny imposed upon Europe (indeed, upon the world) by the 'needs of the epoch'. It is these 'needs' which (without having to be turned into wants) convict civil association of inadequacy and relegate it to the museum of political curiosities. The contention here is that civil association is to be recognized as a recessive characteristic of modern European politics because it is becoming an impossible mode of association in an over-populated world being rapidly and continuously transformed by the undirected zeal of inventive technologists. And it is believed (or perhaps only hoped) that, in the nick of time, Europe (and the world) will be saved from disaster not (as one might have supposed) by governments whose sole office is to prescribe conditions to be observed by this efflorescence of technological adventure, but by governments which will monopolize, promote, and direct it. There is, however, nothing here to detain us even if we neglect its inherent absurdity. The disposition in favour of teleocracy which the authors of this fantasy represent as a recent emergence has been a feature of the European political consciousness for more than five centuries and it received its definitive expression three hundred years ago in the idea of 'enlightened' government: they have said nothing and they have nothing to say which Bacon and von Justi have not already said. Of course it is true that there have been secular changes in modern European history which have favoured teleocracy (notably the demands of modern war), and once it has got itself accepted it will

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secure employment, greater and better social services, a single compulsory educational system, and all within the framework of a free society.' Or they appeal to magic: 'A fully planned economy may impinge upon individual liberties, but it will extend the personal freedom of all the members of the community.'

endeavour to perpetuate circumstances favourable to itself, but the notion that there is an irresistible trend in modern European history towards teleocratic government and that we are now offered the choice between teleocracy and disaster belongs only to the seedy rhetorical outfit of an unconfident teleocrat.

But, if the components of the ambivalent character of a state and the office of its government are not to be read as dominant and recessive dispositions, neither are they to be understood as complementary characteristics—both required (like the two dimensions of a plane figure) for the specification of a modern European state. *Societas* and *universitas* stand, each, for an independent, self-sustaining mode of association; and my contention is that they are both characteristics of a state, not because they have an inherent need of one another (indeed, they deny one another), but because they have become contingently joined by the choices of human beings in the character of a modern European state. And if this is the situation, it may be that the most one can do is to offer these terms as the most effective apparatus for understanding the actual complexity of a state, to provide the historical evidence by means of which the suspicion that they are merely fanciful inventions may be rebutted, not to put upon them more weight than they can support, and to leave it at that. To have distinguished this theme—the character of a modern European state and the office of its government—from all else that has been thought and said about states and governments, to have accounted for what has been thought and said about it by connecting it with an inheritance of reflection, aspiration, and performance, and to have explored the contingent fortunes of this inheritance in modern times is, perhaps, to have said something to make it more intelligible. But the temptation remains to seek a more general explanation of this ambivalence than a historical understanding can provide. I think it is a temptation to be resisted, but if we yield to it the direction in which we must look is not in doubt. A state as an association of human beings and the office of its government are analogues of the characters (that is, the self-understandings) of the associates, and to spell this out once more may perhaps diminish the mystery.

It may be true that, hidden in human character, there are two powerful and contrary dispositions, neither strong enough to defeat or to put to flight the other.

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The one is a disposition to be 'self-employed' in which a man recognizes himself and all others in terms of self-determination; that is, in terms of wants rather than slippery satisfactions and of adventures rather than uncertain outcomes. This is a disposition to prefer the road to the inn, ambulatory conversation to deliberation about means for achieving ends, the rules of the road to directions about how to reach a destination, and to recognize that

> The road runs always to the sea
> 'Twixt duty and delight.

And since men are apt to make gods whose characters reflect what they believe to be their own, the deity corresponding to this self-understanding is an Augustinian god of majestic imagination, who, when he might have devised an untroublesome universe, had the nerve to create one composed of self-employed adventures of unpredictable fancy, to announce to them some rules of conduct, and thus to acquire convives capable of 'answering back' in civil tones with whom to pass eternity in conversation.

The other is a disposition to identify oneself as a partner with others in a common enterprise and as a sharer in a common stock of resources and a common stock of talents with which to exploit it. The enterprise may be described in various terms: the search for Truth, the pursuit of the Common Good, 'making nature yield what it has never yielded', etc. It is a co-operative undertaking and therefore in terms of managerial decisions about performances; and there is a notional 'one best way' of conducting it. In this self-identification outcomes are preferred to adventures and satisfactions to wants. Indeed, properly speaking, there are no wants; there are only expectations of benefits authorized in the enterprise. These benefits may be of various kinds: status, bread, 'leisure areas', income, employment, so-called education, etc. But although they may be enjoyed they are not exactly 'enjoyments'; they are not related to choices but to the conduct of the enterprise and to the 'one best way'. They are 'rations' or truck, and they are allocated according to some rule of distribution deemed to be favourable to the conduct of the enterprise. They are apt to be spoken of as 'rights' to receive certain quantities of certain substantive things, but the expectation that these products of the enterprise will be equally divided is usually disappointed. And this self-understanding may be recognized as a disposition (and the

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attempt to understand the enterprise as an organic process may be recognized as error) because it rests upon a vestigial want: that of preferring the security of receiving expected benefits to the insecurity of seeking to satisfy chosen wants. The deity corresponding to this disposition is the Proprietor of an estate of vast resources ('Nature') who, although he made be suspected of being somewhat niggardly, is nevertheless (like the managers of the enterprise) a 'providence', not the author of rules of conduct but the source of substantial benefits.

And it may be thought that an inherently ambivalent personality of this kind goes some way to accounting for the equivocal character of a modern European state and the office of its government. But there are good reasons for doubting whether so general, so slippery and so speculative a proposition about 'human nature' can extend the frontiers of our understanding of a state. Nevertheless, in seeking postulates in terms of which to understand a modern European state as an association of human beings it is to the contingencies of human character that we must turn.

It is, of course, a gross error to think (like Karl Marx and some others) that the terms of human self-understanding, and thus of human association, must at bottom always be the same; for example, those of a man's relation to the engagement of exploiting the natural resources of the world for the satisfaction of human wants. And the persons brought together and held together in a modern European state are notably various in their self-understandings. 'Suckled on the milk of many nurses', as Fulke Greville observes, they may have little in common. And the self-understanding of each is manifold. But there may be something to be said for the contention that these persons have, generally speaking, come to identify themselves (or perhaps only their 'happiness') in terms of one or other of two conditions not unlike the dispositions I have distinguished, and that this is the tension (which corresponds to none of the many other observable tensions) reflected in the equivocal character of a modern European state. But whatever there is to be said in favour of this view of the matter depends upon the identification of these dispositions as historic self-understandings and not universal so-called psychological types. Each has to be recognized as a contingent response to a historic situation and as the outcome of a self-education, and not as a character somehow imposed by such circumstances as poverty or wealth. Each is an

idiom of contingent human character known only in actions and utterances. And while identification of them in these terms does not warrant a neglect of their discrepancy, it does suggest that they should not be so starkly opposed to one another: each is a historic character and a character on the wing continuously exposed to modification in intercourse with the other. In a modern European state they are not friends, but nor are they exactly foes; perhaps, as was said of England and France in the sixteenth century, their relationship is that of 'sweet enemies'.

In short if, somewhat improperly, something more were sought than a historical account of how the character of a modern European state and the office of its government came to be understood in terms of the diverse analogies of *societas* and *universitas* then perhaps it may be found in translating this divergence into the language of contingent human dispositions; that is, recognizing these analogies as reflections of self-understandings, each a historic response to the ordeal of consciousness, which have emerged among the associates who compose the still-puzzling associations called modern European states and have settled themselves there in ever changing proportions.

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This classic philosophical text is composed of three connected essays. Each has its own concern: the first with theoretical understanding, and with human conduct in general; the second with an ideal mode of human relationship which the author has called civil association; and the third with that ambiguous, historic association commonly called a modern European state. But if the second essay (the engagement to understand the civil condition) is taken as the central theme of the book, then the first may be read as a consideration of some of the terms and presuppositions of that engagement, and the third as an account of the character of a modern European state and of the place which the idea of civil association occupies in it.

Running through the work is Professor Oakeshott's belief in philosophical reflection as an adventure: the adventure of one who seeks to understand in other terms what he already understands, and where the understanding sought is a disclosure of the conditions of the understanding enjoyed and not a substitute for it. Its most appropriate expression is an essay, which, he writes, 'does not dissemble the conditionality of the conclusions it throws up and although it may enlighten it does not instruct'.

'This book is like a long elegant conversation—sometimes rather abstract, always with a keen eye for concrete exemplification, learned, analytical, and full of trenchant insights.' *Library Journal*

'this majestic work by the greatest living British philosopher of conservative disposition' *National Review*

'This book should be read by anyone concerned with the conceptual basis of politics.' *British Book News*

Michael Oakeshott was Professor of Political Science at the London School of Economics from 1951 until his retirement in 1969. His books include *Experience and its Modes* (1933), *The Social and Political Doctrines of Contemporary Europe* (1939), *Rationalism in Politics* (1962), and an influential edition of Hobbes's *Leviathan* (1946).

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